

## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

Andrea Gamberini

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## Title Pages

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**(p.iii)** The Clash of Legitimacies

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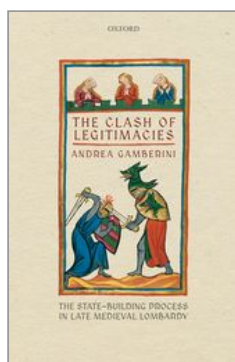
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## (p.v) Note to the English Edition

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The present text is the translation, appropriately revised, of a book published in Italy by Viella Libreria Editrice in 2016 under the title *La legittimità contesa. Costruzione statale e culture politiche (Lombardia, XII-XV secolo)*. It is through the graciousness of John Watts, with whom I share an interest in political cultures and whose studies I warmly admire, that I received the invitation to publish a new version with Oxford University Press. I would like to thank Stuart Wilson, my cordial and accommodating translator, for providing an English version. A special thanks goes out to Julius Kirshner who, with immense generosity, made himself available to read over the English text.

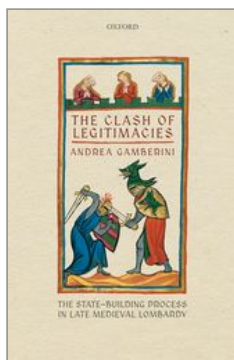
Conceived originally for an Italian audience, the work is now being presented to an international audience. This has involved a certain amount of adaptation of the text, integrating and clarifying where necessary, so that it would be more accessible to a reader with no great experience in Italian history. The passages in Latin or Italian vernacular have also been translated into English, with the original texts in brackets or in footnotes. The addition of maps and certain images not included in the Italian edition should further contribute to the clarity of the content. One last word regarding lexis: to avoid ambiguity, I have adopted the term *signoria* to refer to urban proto-princely regimes; the term 'seigneurial', in turn, refers mainly to rural lordships.

A.G.

*Milan*

*October 2017 (p.vi)*





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## (p.ix) List of Abbreviations

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ASMI

Milan, Archivio di Stato

ASRe

Reggio Emilia, Archivio di Stato

DBI

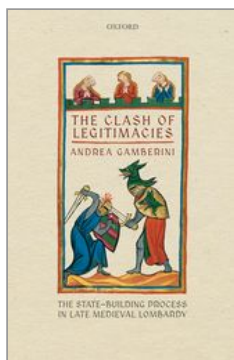
*Dizionario Biografico degli Italiani*, Rome 1961–

RIS

*Rerum Italicarum Scriptores*, ed. L. A. Muratori, Milan 1723–51

RIS<sup>2</sup>

*Rerum Italicarum Scriptores. Raccolta degli storici italiani dal cinquecento al millecinquecento ordinata da L. A. Muratori. Nuova edizione riveduta, ampliata e corretta*, ed. G. Carducci and V. Fiorini, Città di Castello 1900– **(p.x)**



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## (p.xi) Rulers of Milan, 1277–1535

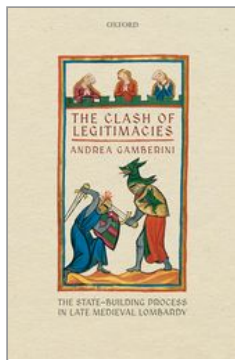
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|                                          |           |
|------------------------------------------|-----------|
| Ottone Visconti                          | 1277–1287 |
| Matteo Visconti                          | 1287–1302 |
| Guido della Torre                        | 1302–1311 |
| Matteo Visconti                          | 1311–1321 |
| Galeazzo I Visconti                      | 1322–1327 |
| Azzone Visconti                          | 1329–1339 |
| Luchino and Giovanni Visconti            | 1339–1349 |
| Giovanni Visconti                        | 1349–1354 |
| Matteo, Galeazzo II and Bernabò Visconti | 1354–1355 |
| Galeazzo II and Bernabò Visconti         | 1355–1378 |
| Bernabò and Gian Galeazzo Visconti       | 1378–1385 |
| Gian Galeazzo Visconti                   | 1385–1402 |
| Giovanni Maria Visconti                  | 1402–1412 |
| Filippo Maria Visconti                   | 1412–1447 |
| Francesco I Sforza                       | 1450–1466 |
| Galeazzo Maria Sforza                    | 1466–1476 |
| Gian Galeazzo Sforza                     | 1476–1494 |
| Ludovico Maria Sforza, ‘il Moro’         | 1494–1499 |

---

|                           |           |
|---------------------------|-----------|
| Louis II, king of France  | 1500–1512 |
| Massimiliano Sforza       | 1512–1515 |
| Francis I, king of France | 1515–1521 |
| Francesco II Sforza       | 1521–1535 |

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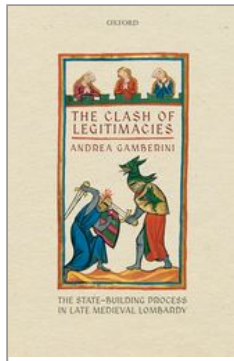
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## Introduction

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### Abstract and Keywords

The introduction gives a critical rereading of the historiographical debate regarding the processes of state building at the end of the Middle Ages, highlighting its limitations in the lack of interest shown in the ideal reasons for the political conflict. This then gives rise to the interpretative proposal that forms the basis of the present work, which aims to shed light on the many conflicts that, in relation to legitimacy of power, tore medieval society apart. With this in mind, the introduction focuses on an analysis of the sources that are potentially useful for the study of these particular aspects, on the risks underlying their use, and on the expected results. The last part discusses the structure of the work and justifies the decision to divide it into two, clearly divided parts, dedicated to the communal age on the one hand and the post-communal era on the other.

*Keywords:* Lombardy, Renaissance, historiography, state-building process, political cultures

1. The aim of this book is to examine one of Italy's most studied regions, Lombardy,<sup>1</sup> with the ambition of recounting a story that is actually still not very well known: the story of the clash—cultural, as well as political and military—between the large, new territorial formations that arose in the late Middle Ages and the many social and class-defined bodies present within their borders.

Historiography has generally presented these conflicts as the result of a process of expansion and consolidation launched on the initiative of city communes and then of regional states, forces determined to subjugate (and, where possible,

eliminate) competing jurisdictions, whether secular or ecclesiastical. This approach—and it is worth stating this now, very clearly—is anything but baseless, given that it captures some of the salient aspects of the constitutional dynamics between the thirteenth century and the fifteenth century, beginning with the construction of relatively compact domains that responded to a new conception of territorial sovereignty common to other areas of Europe.<sup>2</sup>

The chief criticism I intend to make with regard to this approach—dominant in Italy until the early 2000s at least—is, however, precisely that it has thematized the crucial subject of state-building processes in a mainly political and institutional perspective. Even a quick glance through the enormous number of studies produced on the issue since World War II reveals that what has most interested historians has been the ‘increase in regulatory capacity’<sup>3</sup> of the state: this has involved studying public institutions (primarily bureaucracy, the army, and the judicial and fiscal systems) and their progress measured over time.<sup>4</sup> This focus, in turn, gave rise to a reading of the political struggle wholly centred on the question of the division of judicial powers between centre and periphery and on access to resources (primarily through taxation), according to a script that saw the city-state and then regional states seek to expand their power of intervention in the territory and territorial and social bodies attempting to resist and establish limits. In general, the theme **(p.2)** of the political culture of the figures involved has tended to remain rather more in the background.

This not to say that the matter has never been treated; only that it has generally been done with approaches that this book does not share. This may perhaps be due to the fact that it postulated the existence of a range of principles that tended to be common to both the governors and the governed: as if, to put it another way, the rules of the political game were shared by the many actors on the scene.<sup>5</sup> In this perspective, the negotiation of norms—an aspect which historiography has focused on since the 1990s at least—has implicitly validated the theory of law as a shared platform, on which groups and communities could build their resistance.<sup>6</sup>

Or it may be due to the fact that the tensions produced by political interaction have been seen at most as the product of the effort of this or that leading figure to bend the rules in their favour, to give an interpretation of convenience, according to a prevalently instrumental reading of political languages and cultures.<sup>7</sup>

Recent research, however, has given us a glimpse of a more complex reality, showing that one of the main sources of tension and conflict between the bodies was precisely the guiding principles of the political game and the rules that derived therefrom: which not only were not always a common heritage, but often had their origins in very different cultural backgrounds.<sup>8</sup>

The thesis that I propose to argue is that political conflict in the states of the late Middle Ages—both town-based and, later on, those more regional in scope—was not fuelled only by the interest of the parties in repositioning themselves politically with respect to their interlocutors (to obtain, in other words, the recognition of more advantageous conditions from a fiscal, judicial, and economic point of view), but also by the survival of a plurality of political cultures, different in terms of both content and structure.

This is not, of course, to deny the importance of the material reasons that also guided political action. Moreover, a rich and well-documented literature has by now shed a great deal of light on the tensions linked to the exploitation, primarily economic, perpetrated by the cities at the expense of their respective surroundings; and, indeed, on the ‘class conflict’ within Italian cities, to use an expression that has not lost its interpretative significance and that has been revived in a post-Marxist perspective by John Najemy.<sup>9</sup>

**(p.3)** However, this research aims to show how together with these motivations for conflict—and sometimes intertwined with them—there also existed other factors, which called into question the ideal reasons for political coexistence, the system of values that inspired it, and the cultural basis on which they were founded.

The rich historiographical vein of post-colonial studies has directed more than a little attention to the consequences of exporting modern statehood to territories where social life was regulated according to partially, or totally, alternative principles, and this perspective provides us with important hermeneutical suggestions. We are all aware of how problematic the introduction of a new institutional structure, with all its accompanying political weight, might be for local people.<sup>10</sup> The examples of the Australian Aborigines or Native Americans are only the best-known illustrations from a range of cases that has greatly expanded over the years, as bit by bit the great narratives drawn from a pro-Eurocentric perspective have been deconstructed—narratives that were prone to enhance ‘the magnificent and progressive destiny’ of the modern state, its civilizing influence, its catalytic role in progress. Instead, the limitations and contradictions inherent in the adaptation to local realities of constitutional models created elsewhere have become increasingly clear. Difficulties have thus been highlighted in the attempt to impose parliamentary democracy on countries organized on a tribal basis, or those linked to the difficult coexistence between social practices legitimized by tradition and behaviour prescribed by positive law. Then there is the special form of conflict that revolves around the principle of territoriality, the true cornerstone of the modern state, where a great deal of research has highlighted the disciplinarian force—and sometimes violence—deployed against local societies that are often prone to defining political space based on relational, rather than geographical, coordinates.<sup>11</sup> In addition, other research has shown that ‘even when rule is territorial and fixed,

territory does not necessarily entail the practices of total mutual exclusion which the dominant understanding of the territorial state attributes to it'—to the point where, in the field of the history of international relations, people have openly started talking about the 'territorial trap'.<sup>12</sup>

The invitation that these studies offer is therefore to reflect on the cultural distances between central authorities and local societies: at its most extreme in the contexts studied in the field of post-colonial studies, but also present in the Italian late Middle Ages.

With regard to this question, it is I think worth pointing out the rather wall-eyed nature of political and constitutional historiography, which on the one hand has extensively investigated the consequences of the spread of modern statehood **(p.4)** on the many 'new worlds' to which it was transplanted, while on the other it has continued to ignore the implications of the state-building processes in the contexts in which it originated. Yet the 'political state form' has not always existed: it is not an 'original order', as Friedrich Christoph Dahlmann theorized, but the product of human arbitrariness. As such, it therefore had a genesis and development, which took place not on virgin soil, but in an environment characterized by the presence of forms of political organization based on very different principles and rules.<sup>13</sup>

Some clarifications, however, are required at this point. The producers of statehood to which this research refers are city communes and regional states. This is not, of course, the place to discuss the legacy of the late medieval constitutional processes with respect to modern and contemporary statehood, topics which have been widely covered in a series of recent publications.<sup>14</sup> If anything, the aspect that I intend to look at here is the discontinuity—already well understood and theorized by contemporaries, at least since the thirteenth century—constituted by formations that were not only collocated within a context of public law (where they came to claim a dimension of actual statehood), but also determined to exercise a new variety of territorial superiority—one which involved not only the social and political bodies on which these societies formally depended, but also all those over which they had no specific rights and which yet fell within the political space they claimed as exclusive (the surrounding area, the *contado*, in the case of city-state; the entire domain, in the case of the regional state).<sup>15</sup>

Whatever, then, the legacy of those experiences over the following centuries, this research takes as its starting point the originality and the impact of the city-, and then regional, states on the political scene of the time. The effort on the part of these actors to conceptualize their primacy, to develop it on a legal and political level, to shape a system of government of both people and territory, led to the development of elements of political culture that were largely new. They differed from pre-existing ones in terms of content and sometimes even of



origin and from this arose the confrontation and tension with the political cultures that were already present.

The projection of the nascent city-states over the surrounding territory marked, in fact, the beginning of a long period of friction between forms of social organization that were often based on very different principles.

Of course it would be wrong to present what separates these different worlds as a clear-cut break. Borders between cultures are never impermeable (as the debate **(p.5)** over so-called 'popular culture' has demonstrated in past years)<sup>16</sup> and the one at issue here is no exception: political models circulate, spread, adapt to different contexts (as in the case of communal institutions), while value systems contaminate and influence. This is well indicated by the culture of territorial aristocracies (with its ethos, inclination to violence, and a clear code of conduct), which became a reference point for city elites (with results, in terms of infra-citizen conflict, which became manifest in the age of the regimes of the *Popolo*).

Beyond reciprocal influences, however, it is undeniable that the expansion of city communes throughout the territory led to an unprecedented clash, not only between various political actors, but also between ideals and cultures, between radically divergent ways of conceiving political society and relationships of authority: horizontal solidarity versus vertical solidarity, communities of equals (*cives*) versus relationships of individual subordination, *bonum commune* versus honour of lineage, and so forth.

Within an already extremely complex framework, the birth of the regional states did nothing but introduce further elements of complication. The political cultures which the new formations brought with them, far from being able to absorb or eradicate those of the many social and territorial bodies, overlapped with them, producing highly complex situations in which intrigue, resistance, and conflict were the order of the day. The state in the late Middle Ages—both city and regional versions—not only did not have a monopoly on force (as a great deal of research has now made quite clear), but had no monopoly on legitimacy either. Within the social and territorial bodies that could not be eradicated, principles of political culture, heterogeneous in terms of both content and origin, continued to be valid, and thus, coming into collision with those espoused by the state, created misunderstanding, tension, and conflict.

In a principality, for example, the encounter between the culture of the state and that of the communities was a very problematic one, and not just because of the difficulty in reconciling republican forms of organization with a monarchical context, but also because of the different values that structured these two worlds. In contrast to the reverence given to unanimously made decisions—the latter taken following complex procedures which emphasized the unity of the

community and the equality of its members—the prince supported criteria such as efficiency or speed of execution.

This gave rise, then, to the tendency of central governments (and their local representatives, the officials) to circumvent the mediation of local institutions (above all, the assembly of heads of families) and establish contact with local figures of greater social prominence, while a new vocabulary of merit now recognized the individual figures that the prince had elected as interlocutors (the *meliores*, the *principales*, that is the ‘best’, the most ‘prominent’) in an attempt to undermine community egalitarianism.

**(p.6)** At other times, the clash arose from the legitimacy of different economic models, according to dynamics that clearly show how the values that inspired politics actually permeated other aspects of social life, in an unbroken continuum. Thus, for example, the principles of economic rationality and profit that at a certain moment local elites were interested in promoting were, in some Lombardy mountain communities, undermined by the perpetuation of contractual forms that did not pursue profit for municipal coffers, but rather the benefit of the local population, the only one permitted to lease community goods. Local political actors could also therefore pursue the ideal of community through economic means, while the prince, on the other hand, doing his utmost to eradicate local identity and status within the broader category of *subditi* (subjects), tolerated this with annoyance and opposed it when he could.<sup>17</sup>

To the question ‘What justifies obedience to a higher power?’, the answers of the political actors of the time reveal the existence of a background of political culture that is both extremely varied and mutually irreconcilable. This applies to the relationship of prince with community, as well as to that of the prince with the territorial aristocracy. It is well known, for instance, that at the end of the Middle Ages the prince based a significant proportion of his claims to sovereignty on his role as a guarantor of peace. And yet the territorial aristocracy of the domain disputed that role, and the goal by which it was justified.

Faced with the efforts of the prince to assert his monopoly over war, the Lombard nobles claimed their just *ius ad bellum* (right to war) presented as a class-based prerogative and, as such, untouchable. What they presumably expected of the prince was not, therefore, the maintenance of peace, but rather the preservation of those customs that from time immemorial governed the conduct of aristocratic wars and with respect to which he was asked to be vigilant.

The points mentioned here take in just a few of the conflicts which will be discussed further below, and yet they are already enough to provide a glimpse of the wealth of political cultures and competing ideals. To rediscover them,

delineate their diffusion, and see what effects are produced when they encounter one another are, then, the aims of this book.

2. It is the reasons that have led historians to overlook these issues that deserve some consideration at this point, together with the methodological lessons that can be drawn. A look at the recent past firstly leads us to consider the role—long influential in Italy—of Marxist historiography, prone to value the dimensions of practice more than those of ideas, the struggle for material resources more than the struggle for the principles of political culture—which are seen at best as a derivation of those struggles, at worst as a false patina of legitimization.

Contributing to overlie certain of the voices of political debate in the late Middle Ages, and to conceal in some way the heterogeneity of existing cultures, was the existence of a robust Hegelian tradition, effectively embodied in Italy by the legal historians of the nineteenth and twentieth centuries. They were, as Paolo Grossi noted a few years ago, the main holders of a legalistic attitude that led them **(p.7)** to take into consideration ‘every juridical manifestation, provided it was legislative, provided that it came from the depository organ of state sovereignty’.<sup>18</sup> The consequence was that anything different with respect to a positive norm was neglected. It was far rarer—at least until very recently—to focus instead on habits and customs, on the unwritten laws.<sup>19</sup>

However, not even the particular inclinations of the historians of law and institutions seem sufficient to justify this kind of perspectival homogenization. The constitutional dynamics of city states and territorial states have also contributed to the concealment of alternative cultures, formations which through the conceptual paraphernalia developed thanks to Roman and canon law (territoriality, royalties, *plenitudo potestatis*, etc.),<sup>20</sup> evolved and then affirmed the idea of a monopoly on legitimacy, which recognized very little space for forms of social organization based on different principles. Proponents of such forms, indeed, were perceived as dangerous antagonists, and as such these different forms became the target of an extensive and continuous ideological offensive, at times aimed at depriving them of their freight of otherness, at times determined even to deny their very existence.<sup>21</sup>

To combat this neglect and bring out the plurality and heterogeneity of the positions in the field, one particularly fruitful way might be to focus on that combination of words, images, and elaborations through which social actors embodied their ideals of coexistence and, more generally, embellished the universe of values within which their own political activity was located.<sup>22</sup>

The analysis of sources usually neglected by historians of political thought, especially those of a pragmatic kind,<sup>23</sup> has made it possible to identify a series of textual areas (pacts of submission, the prefaces of statutes, trial testimonies, the

discussion of lordly decrees, etc.), in which there is abundant evidence of the statements of principle and ideal claims which the various political actors employed to accompany their initiatives.

This is an approach that first found affirmation in Italian medieval research, when, in studies of the communal age, a link was discovered between the development of **(p.8)** a new ideology of the common good of the *civitas* and the experience of government by *podestà* and *Popolo*.<sup>24</sup> These were subsequently developed by historiography on the states of the late Middle Ages, finally able to rebel against the tyranny of the self-validating discourses of those in power, from the representations with which the latter cloaked their influence on the political community.<sup>25</sup>

Here, then, is what still, just a few years ago, seemed like only a wish—the ability, on the part of historians, to take note ‘of the multiplicity of subjects who, at different levels of society and with different forms of knowledge and processing capabilities, were still able to situate their political action within an ideal horizon of reference’<sup>26</sup>—today seems an established fact.

The increasing attention paid to pragmatic writings and the languages conveyed through them has opened up a glimpse of the plurality of positions and arguments invoked by the various actors. It has made the debate surrounding the issue of the legitimacy of power one of the most common features of the late medieval state, notwithstanding the shadows within which it was long enshrouded.<sup>27</sup>

3. Before entering *in medias res*, a further caveat is necessary. Although for convenience I have so far spoken of a ‘political culture’ more or less alternative to that of the state (and for the same reason I will continue to do so in the following pages), the correct expression should be ‘elements of political culture’. The lexeme *political cultures* is in fact likely to give rise to a dangerous misunderstanding, suggesting the existence of coherent, articulated, and tendentially self-referential systems. What we have evidence of, sometimes indirect and fragmented, sometimes more wide-ranging and explicit, is, if anything, the existence of values, of political idealities that are very different from those advocated by the state: not only in terms of content, but also in terms of their foundations, which often relate to customs and practices diffused throughout well-defined geographical or class-based areas.

In fact, the state institutions themselves, finding it necessary to bring discipline to those cultures, introduced a graduation of the sources of law which, although subordinate to the *ius proprium* of the city (the laws of a city commune to which citizens were subject), also took local customs into account.<sup>28</sup> Naturally, the primary concern of powers as they became hegemonic was to strictly

circumscribe the field of application, excluding that broad range of areas that now fell within the sphere of sovereignty to which they laid claim. Despite this, however, custom continued to permeate many aspects of the political sphere, far beyond that which the state was willing to acknowledge to local actors.

**(p.9)** These elements of custom will be considered here very pragmatically, without reifying their content in atemporal categories and without taking for granted that their origin always lies elsewhere than with the political culture of the state. On the one hand, much research has highlighted the dynamic, and far from static, nature of custom, its fluctuations over time, the negotiated character of the rules, also due to the activity of some of the most enterprising political actors, with regard to their ability to manipulate or construct tradition.<sup>29</sup> On the other hand, studies that focused on the origins of these practices (as was done in Germany) had to take notice of their contamination with the *ius commune* (medieval Roman canon law), proof of the impossibility of making clear-cut distinctions between the world of 'old, good law' and that which formed the basis of the political culture of the nascent state bodies.<sup>30</sup>

For this reason, too, therefore, the origins of the different political cultures will not be lingered over here, nor will any attempt be made to trace the outlines of specific political languages (meaning, with this expression, a more or less coherent set of tropes, rhetorical devices, stylistic features, topoi, and argumentative modes, along the lines suggested by anglophone historiography).<sup>31</sup> Moreover, those who have studied the pragmatic use of political languages have had to take note that they could be deployed in very different ways: all that was necessary was to use a particular selection of sources, insist on certain *auctoritates* rather than others, chosen to suit the particular public that had to be reached, to make it possible to alter the logic of the discourse and redirect its aim. The impression is, in fact, that no specific ideality corresponds univocally to a specific language.<sup>32</sup>

I am interested rather in focusing on the content that these discursive materials are allowed to formulate, while still maintaining an awareness that the degree of elaboration proffered by individual political actors was highly variable: the conditions of political obligation expressed by a country dweller collected indirectly in the report of an official or in the record of a court deposition are a very different thing from the density instead presented by a petition prepared by a community council, perhaps with the help of a *scriptor* (a scribe = public notary) trained in the *ars dictaminis* (the art of letter writing), the great tradition of communal composition. What seems to emerge, however, beyond such differences, significant though they may be, is a confrontation between positions that stand out clearly against the background of a political culture that is often not shared by the participants.

**(p.10)** The reconstruction of this background presents certain difficulties, and these must be acknowledged here at the start, with the Introduction to this work. The knowledge of those distant cultures is in fact not only exclusively mediated through the ‘panorama of sources’—to employ Paolo Cammarosano’s<sup>33</sup> effective expression—but also through the varying levels of access that political actors had to the written word and the different uses they made of it.

An intense debate has, for example, developed in recent years with regard to the voice of non-hegemonic subjects, and the ability to listen to and understand its significance. This is especially true where the rural *signoria* (lordship) remained one of the main forms of political organization in the countryside, and where there are few sources that manage to pierce the mantle of silence surrounding their dependents (*homines*). Recent research by Luigi Provero on central and southern Piedmont has shown how a seemingly non-evocative—at least, in immediate and explicit terms—documentary form of the political debate between *domini* (masters) and those (serfs, free subjects) who served them, such as the *carte di franchigia* (charters granting immunities from feudal obligations), can instead be richly revealing.<sup>34</sup>

The area in which the rustic voice is instead most clearly recorded is the legal sphere, but here the problems regard the exegesis of documentation which is, by its very nature, particularly difficult. In fact, far from being neutral communications from a distant world, the testimonies of countrymen on the occasion of disputes between lords of the castle (and, sometimes, between communities and lords of the castle) pose a series of questions, regarding the transition from orality to writing, that bear upon the conditioning produced by techniques of recording (and, therefore, on factors such as the space conceded to individual depositions, the more or less targeted nature of the questioning, the interests of the investigators, generally more oriented towards elements with significance for the law than towards those with significance in terms of local customs, etc.).<sup>35</sup> No less impactful on the source is the role of the political actors themselves. In some contexts, for instance, the eagerness of the *homines* to be at the centre of attention is highlighted, together with their ability to bring the collective cultural memory into play, to introduce innovative elements.<sup>36</sup> In other cases, greater emphasis is instead placed on the *domini*, their ability to bend the depositions of the countrymen to their own particular legal strategy clearly visible. In this context, it has been observed that the very choice of texts and their order of appearance in court was not random. As for the testimonies (the written dossiers submitted by the parties), these were generally assembled to enhance what, in court, would be more convenient for the lords.<sup>37</sup>

**(p.11)** The thesis that I propose to put forward here is that, despite these caveats, it is still possible to track down the ideality of the rural dweller. Even when countrymen were called as witnesses before the lord, what they were offered was still an extraordinary opportunity to talk about themselves.<sup>38</sup>

Questioning opened up the possibility of sending messages, laying claim to positions, building relationships: in answering the questions of the magistrates, the *homines* did not merely limit themselves to making reference to gestures or actions, but they often offered their own interpretation as well, the meaning that they attributed to these acts. Disputes between lords involved elements such as the land, the castle, and justice, to which the *homines* showed their attribution of a value that was also truly cultural. In other words, it is in these gestures and these exchanges that they identify the fundamentals of obedience to a higher power. And the duties of the lord are always dependent on the same elements, according to a principle of reciprocity which sometimes truly informs the political relationship, but which is often instead a unilateral representation that tended to have an impact on the equilibrium of the moment.<sup>39</sup>

But it was not only the different levels of access to the written word that affected the forms of communication of the many political actors. The range of expressive media offered to them was in fact fairly broad, thus allowing each of them the opportunity to find the most suitable conveyance. Notwithstanding the fact that, from the early fourteenth century, states (both city and regional) had made the letter the main instrument of political communication between the various institutional levels of the dominion,<sup>40</sup> social bodies also had recourse to other means, such as ritualized actions, highly effective for the advancement of new claims, or to call attention to the privileges of status, or even to challenge the claims of others. The ostentatious denial of a request, the throwing down of the gauntlet, the violation of an enemy's house, the wearing of robes of a certain colour: looked at closely, the stories of the chroniclers, as well as the reports of public officials or court depositions, tend to be extremely rich in references to symbolic actions with strong political content.

The problems posed by sources that preserve the memory of rituals—and from judicial papers in particular—however, go beyond those that, as we mentioned above, are related to the transition from orality to writing. In some areas of historical research, in fact, a form of radical scepticism has become widespread with regard to the possibility of accessing the sphere of ideality through ritual.

At the basis of this reading is the thesis that the society of the *Ancien Régime* (and thus also the late Middle Ages) was dominated by the 'culture of possession'—that is, the combination of 'acts and procedures, including ritual, in which is recognized the value of evidence of a right to gain access to tangible and intangible resources'.<sup>41</sup> In a society such as the medieval one and that of early modern times, whose most distinctive feature was the competition and convergence between different jurisdictions (think of the clash between two lords of the castle for the control of a village; the clash between several villages over a border issue; the clash between two parishes **(p.12)** for the right to a community's tithe; or between two individuals for the right to make use of a piece of land, etc.), the social and political actors expressed their claims through

so-called custom—that is, ritual actions performed in public, so as to be remembered. As Chris Wickham observed, with Tuscany as a case study, most of the claims made in this way were not contested and therefore were accepted; others were generally resolved on an informal basis (perhaps through the mediation of community elders or other figures of authority). Only a few ended up in the courts, where the verbalization of the witness statements has made it possible for historians to gain access to the world of custom.<sup>42</sup>

However, it is precisely the meaning of those actions that is central to the debate. According to certain historiographical trends, in fact, these were only gestures (and, as such, not to be freighted with excessive significance) conceived by the actors within the context of a specific strategy of conflict management: should they have been recognized as legitimate (by a court, general belief, opinion of a council of elders, etc.), then these same actions would have had the effect of transforming the prerogatives of those who had put them in place.

This argument certainly has the merit of having brought to light, thanks in part to a refined method of analysis—with anthropology playing a not insignificant part—the ability of the social actors to exploit the rules to their own advantage, bending and redefining them.<sup>43</sup> What, however, remains problematic in readings of this type is the relationship between these actions (or practices) and ideality: either because the relationship is resolved through the bringing of the latter down to the level of the former (as Giles Constable wrote: ‘Practice made theory, and custom consecrated abuse’, as if social and political action was determined only by custom and the ability of certain figures to manipulate this in pursuit of their own interests),<sup>44</sup> or because it is not investigated, in the belief that the study of elements of political culture involves postulating the existence of ‘linguistic structures and mythical elements ... that dominate the actors’.<sup>45</sup>

Rejecting forms of extreme culturalism, such as those just evoked, and instead focusing on the most recent acquisitions of the debate on political language and political communication, I think it is possible to tap into that set of ideal and projectual elements that accompany individual and collective political action.

When acting politically individuals tend, in fact, to situate their action within an ideal field of reference: in other words, they tend to interpret both the surrounding reality and the position that they occupy (or think they occupy) within it. This can only be conducted through recourse to more or less elaborate cultural models: representations, in other words, of the political relationship—real interpretative filters.

Often handed down over time, these representations, however, are rarely accepted uncritically by those concerned: ‘more or less sudden and traumatic social **(p.13)** changes often challenge the ability of those who are affected to



give meaning to living in the community, suggesting their abandonment or modification of such ideal images'.<sup>46</sup>

For the historian, then, the point is not to reconstruct abstract and sempiternal mentalities, able to confine individual action to predetermined schemes, but rather to take due account of the development produced by cultures that are renewed and enriched, either thanks to dialogue with other cultures, to borrowings from other spheres, or instead in a more autonomous and independent manner.<sup>47</sup>

4. Lastly, a very brief look at the origin and architecture of this book. It represents the culmination of an interest in political cultures that I began to explore a decade ago and which until now has remained within the temporal coordinates—those that were the most familiar to me—of the very last centuries of the Middle Ages. I had, with reference to the latter, initially taken some steps towards a work of synthesis, but I soon realized the impossibility of treating the fourteenth and fifteenth centuries exclusively as an era with a character all of its own, with its own settled individuality. This is not to say that new and significant elements cannot be found in this particular political period (and these will certainly be addressed in this book), but the legacy of previous centuries, especially the communal age, appeared so vitally important as to suggest shifting the *terminus post quem* of my research further back in time. Next to those idealities that were rather quick to fade, others showed extraordinary vitality, capable of providing a durable structure for the ambitions and expectations of important social segments. Yet others were gradually reshaped over time, but without the perception of the loss of a recognizable connecting thread.

The book is divided into two main sections, which embrace respectively the communal and post-communal periods (the latter limited to the domain of Visconti-Sforza). In both, chapters of contextualization (historical and historiographical) alternate with others dealing with assessment and interpretation, in order to provide the reader with both the general overall framework of reference and the individual elements that emerge from this framework in order to give shape to the thesis, one that I hope is recognizable, of the book itself.

With the conclusion of this work, I would like to mention the people and institutions who have played a role in its development, starting with my first two readers, who discussed large sections of this research with me. They are Jean-Claude Maire Vigueur and Massimo Della Misericordia, and I am immensely grateful to both for their comments and suggestions.

I would also like to thank Federico Del Tredici, with whom I was able to enjoy fruitful discussions on certain issues of common interest, and more generally acknowledge a debt of gratitude to those friends (especially Nadia Covini, Federica Cengarle, and Fabrizio Pagnoni) with whom I had the pleasure of studying for **(p.14)** years now in the Biblioteca di Scienze della Storia of the Università di Milano—a place not only for research but also for debate and discussion.

Warm thanks must also go to the two colleges that generously welcomed me as a visiting fellow, allowing me to start the research presented here: I would like, therefore, to acknowledge the debt of recognition I owe to Professor Sir Martin Harris, former President of Clare Hall (Cambridge), and to the Very Revd Dr Christopher Lewis, former Dean of Christ Church (Oxford).

The book is dedicated to the memory of Fowler Hamilton, a generous *Houseman*.

### Notes:

(<sup>1</sup>) In the medieval meaning of the term, the Po Valley area. Cf. Andenna, *Storia della Lombardia medievale*, 1-20.

(<sup>2</sup>) *L'organizzazione del territorio in Italia e Germania*.

(<sup>3</sup>) To reuse the icastic expression employed by Giorgio Chittolini to indicate his research programme at the end of the 1980s. Chittolini, 'Stati padani, "Stato del Rinascimento": problemi di ricerca', 25.

(<sup>4</sup>) For Lombardy, which forms the background to this research, there are important collective works, starting with *Cancellaria e amministrazione negli stati italiani; Gli ufficiali negli stati italiani*. For the Lombard region which provides the contours for this volume, worth remembering are Chittolini, 'Stati padani, "Stato del Rinascimento" '; Covini, *L'esercito del Duca*; ead., 'La bilanza drita'; Leverotti, ' "Governare a modo e stillo" '.

(<sup>5</sup>) The work by De Benedictis is indicative of this direction, *Repubblica per contratto*, which underlines the circularity of contractual republicanism between Rome and Bologna. Also De Benedictis, 'Consociazioni e "contratti di signoria" '. For a critical reading, cf. Mannori, 'Istituzioni politiche e modernità', 256-9.

(<sup>6</sup>) An example of the negotiation of rights, my own personal investigation, concerns lordly decrees. Cf. Gamberini, *Lo stato visconteo*. But similar considerations can be extended to statutes, the revision of which by the prince was negotiated with the communities. See Storti Storchi, *Scritti sugli statuti lombardi*. On the right of resistance, see De Benedictis, *Tumulti. Moltitudini ribelli in età moderna*.

(<sup>7</sup>) This reading, I think, includes the highly stimulating essay by Lazzarini, 'Argument and Emotion in Italian Diplomacy'.

(<sup>8</sup>) Gamberini, *Lo stato visconteo*. But also see many of the contributions collected in the following volumes: *Linguaggi politici nell'Italia del Rinascimento*; *The Languages of Political Society*.

(<sup>9</sup>) A good place to start is the classic study by Fiumi, *Sui rapporti economici tra città e contado nell'età comunale*. Amongst recent works: Cohn, *Lust for Liberty*; *Rivolte urbane e rivolte contadine*. The importance of a research perspective on the Renaissance that was also attentive to the topic of class was noted by Najemy. It is worth pointing out that his definition of class does not strictly depend on the role of individuals in the production process. Cf. Najemy, 'Politics: Class and Patronage'. Also Najemy, *A History of Florence*.

(<sup>10</sup>) Chatterjee, *The Nation and Its Fragments*; Chatterjee, 'Nationalist Thought and the Colonial World'; Scott, *The Art of Not Being Governed*; Clendinnen, 'Cortés, signs, and the conquest of Mexico'. With a juridical perspective, also, Cassi, *Ius commune tra vecchio e nuovo mondo*.

(<sup>11</sup>) Elden, *Terror and Territory*.

(<sup>12</sup>) Agnew, 'The Territorial Trap', 54.

(<sup>13</sup>) The multi-century selection process amongst the many forms of political organization that already characterized European society at the end of the Middle Ages is referred to in Raggio, *Faide e parentele*, x. But on these themes, also Gentile, 'Leviatano regionale o forma-stato composita?'

(<sup>14</sup>) See *The Italian Renaissance State* and *The Origins of the State*. On the city commune, in particular: Vallerani, 'Comune e comuni. Una dialettica non risolta', where he says: 'But this was probably the function of the commune as *res publica*, and one of the aspects that paradoxically reveal the true nature of *statehood* (indicating with this term precisely how complicated and artificial the communal institutions were): to build a top level of government to guide public affairs without directly controlling all the areas of power present in the city and other institutions'.

(<sup>15</sup>) Chittolini, 'Cites, City-States, and Regional States'; Jones, *The Italian City-State*.

(<sup>16</sup>) See Torre, 'Il discorso popolare: metafora o linguaggio?'; Chartier, *La rappresentazione del sociale*, 45 ff. A recent reflection on the theme of political culture is found in Della Misericordia, *Figure di comunità*, 5–6.

(<sup>17</sup>) Della Misericordia, 'Consuetudine, contratto, lucro individuale, uso domestico'.

(<sup>18</sup>) Grossi, 'La formazione del giurista'; also Grossi, *Mitologie giuridiche della modernità*; Hespanha, *Introduzione alla storia del diritto europeo*, 40 ff. But, for a pluralistic view of laws and institutions, see also the work by Santi Romano, *L'ordinamento giuridico*. A stimulating addition to the topic is Chittolini, 'La storia delle istituzioni in Italia'.

(<sup>19</sup>) Farr, 'Honor, Law, and Custom in Renaissance Europe'; Kelly, '“Second Nature”: The Idea of Custom'. Problems relating to the encounter between custom and positive law have been dealt with by, amongst others, Strauss, *Law, Resistance and the State*; Lenman and Parker, 'The State, the Community, and Criminal Law'. Many interesting points, though for a later era, are raised in Pocock, *The Ancient Constitution and the Feudal Law*.

(<sup>20</sup>) Conetti, *L'origine del potere legittimo*; Canning, 'Italian Juristic Thought and the Realities of Power'; Pennington, *The Prince and the Law*; Hespanha, *Introduzione alla storia del diritto europeo*. Also Hespanha, 'Représentation dogmatique et projets de pouvoir'; Black, *Absolutism in Renaissance Milan*.

(<sup>21</sup>) As Tarello notes, the monopoly of state legitimacy 'was theorized before it was realized'. Tarello, *Storia della cultura giuridica moderna*, I, 48, also cited by Gentile, 'Leviatano regionale o formastato composita?', 572.

(<sup>22</sup>) Petralia, '“Stato” e “moderno”'; Gamberini, *Lo stato visconteo*; Della Misericordia, '“Per non privarci de nostre raxone, li siamo stati desobidienti”'.

(<sup>23</sup>) Amongst the first to point out the importance of those sources were Hagen Keller and Thomas Behrmann. Cf. *Kommunales Schriftgut in Oberitalien*.

(<sup>24</sup>) For example, Artifoni, 'Sull'eloquenza politica nel Duecento italiano'; Artifoni, 'I podestà professionali e la fondazione retorica della politica comunale'; Giansante, *Retorica e politica nel Duecento*. For a previous era: Gandino, *Il vocabolario politico e sociale di Liutprando di Cremona*.

(<sup>25</sup>) Petralia, '“Stato” e “moderno”', 44–5.

(<sup>26</sup>) See Gamberini, *Lo stato visconteo*, 19. Also Watts, *The Making of Politics*, pp. 35–6.

(<sup>27</sup>) Cf. Della Misericordia, '“Per non privarci de nostre raxone, li siamo stati desobidienti”'; Arcangeli, *Gentiluomini di Lombardia*, 331–64; Gentile, *Fazioni al governo*; Cengarle, 'La comunità di Pecetto e i Mandelli feudatari'.

(<sup>28</sup>) Ascheri, 'Statuti e consuetudini: tra storia e storiografia'; Fiore, 'Norma della città e norma del territorio'.

(<sup>29</sup>) Wickham, *Courts and Conflict in Twelfth-Century Tuscany*, 68 ff., 277 ff.; Fiore, '“Bonus et malus usus”'.

<sup>(30)</sup> Mentioned by Teuscher, *Lord's Rights and Peasant Stories*, 7, following Kroeschell, *Deutsche Rechtsgeschichte*, I, 254 ff. But also see the observations by Conte, 'Roman Law vs Custom in a Changing Society'.

<sup>(31)</sup> Regarding what the political languages are, see the different proposals in the collective work, *The Languages of Political Theory*. Also Black, 'Political Languages in Later Medieval Europe'; Lambertini, 'La diffusione della "Politica" '.

<sup>(32)</sup> Ibid, 678. It is to be noted that certain linguistic registers and certain idealities were peculiar to certain actors and certain social sectors (e.g. officials, communities, etc.), rather than others. Cf. Airò, 'Luci e balestre'; Corrao, ' "De la vostra gran senyoria humil e afectuos servidor" '; Della Misericordia, ' "Per non privarci de nostre raxone, li siamo stati desobidienti" '; Senatore, 'La cultura politica di Ferrante d'Aragona'.

<sup>(33)</sup> Cammarosano, *Italia medievale*, 32.

<sup>(34)</sup> In a historiographical panorama dominated by tendentially unilateral readings of franchises, sometimes viewed as a success for the subjects, able to pin lords down to respecting rules and rights, sometimes as a crystallization of the power of lords, who were determined to react when faced with attempts to erode their position perpetrated from below, Provero's perspective is a stimulating one. Provero, *Le parole dei sudditi*.

<sup>(35)</sup> *Authentic Witness; La parola all'accusato*.

<sup>(36)</sup> Teuscher, *Lords' Rights and Peasant Stories*, 92 ff.

<sup>(37)</sup> Provero, *Le parole dei sudditi*.

<sup>(38)</sup> As Provero also recognizes, *Le parole dei sudditi*, 445 ff.

<sup>(39)</sup> Cf. part II chapter 7.

<sup>(40)</sup> Gamberini, *Lo stato visconteo*, 40 and ff.

<sup>(41)</sup> Torre, 'Faith's Boundaries'.

<sup>(42)</sup> Wickham, *Courts and Conflict in Twelfth-Century Tuscany*.

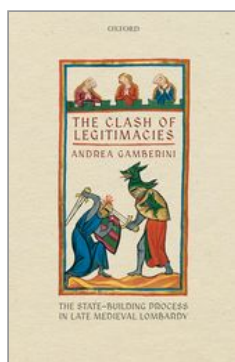
<sup>(43)</sup> As in Wickham, who draws on Pierre Bourdieu and his theory of *habitus*, but as also in Torre, who refers to the lesson of sociology and anthropology.

<sup>(44)</sup> Constable, *Monastic Tithes*, 4.

<sup>(45)</sup> Citation from Torre, *La produzione storica dei luoghi*, 451, who openly takes a position in opposition to this tradition.

(<sup>46</sup>) Della Misericordia, *Figure di comunità*, 5.

(<sup>47</sup>) Some remarks on the conflict between political action and cultural models can be found in Gamberini, ‘“Sentire” o “ascoltare” le “parole dei sudditi”?’, in particular 146.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## Northern Italy in the Central Middle Ages

### Some Historical Background

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### Abstract and Keywords

This chapter focuses on the political change that took place in the post-Carolingian age, when the collapse of empire encouraged the jurisdictional separation of cities and countryside, until then subject to the same authorities and to the same destiny. Thus, while in the city the community of *cives* gathered first around their bishop and then around the new communal institutions, the countryside saw the beginning of a proliferation of lords of castles and manorial lords. The result was the development of very different political cultures that were destined to come into conflict with each other as, starting from the 12th century, the citizens of the commune began their political expansion into the surrounding countryside.

**Keywords:** Empire, rural lordship, city communes, countryside, bishop

To introduce the theme of the clash of political cultures in the late Middle Ages, it is probably necessary to start with the crucial epoch that was the twelfth century. The advent of the city commune—which took place in central and northern Italy in the first decades of the twelfth century—produced two very considerable consequences for the theme that this book addresses: on the one hand, it favoured the development of a new idea of *publicum* (public authority) which would provide the basis for successive developments, and on the other, it contributed to the projection of this conception (and the government structures

which it produced) on the surrounding area, where forms of social organization thrived that were often very different from those in urban areas.

Various elements lay at the source of the political rift between the cities and the rural world, beginning—as is well known—with the collapse of the Carolingian state edifice. Even until the tenth century, in fact, the territory had continued more or less everywhere to share to a certain extent the political destiny of the city: the seat of civil power, the *civitas*, had, since the time of the Romans, formed the hub upon which all of the surrounding area had revolved. These structures were not altered by the peoples who had gradually come to settle in the peninsula since the end of late antiquity. Of course, this does not mean that things had remained static over the centuries: certain rural districts here and there had been enucleated, while a number of cities had withered away and eventually vanished.<sup>1</sup>

Yet, on the whole, the organization of the territory did not lose its urban-centric character, either in the Lombard period (when, if anything, it produced a hierarchy of urban centres different from that of late antique and Gothic Italy),<sup>2</sup> or that of the Franks.<sup>3</sup>

A decisive contribution to the further reinforcement of the links between the urban centre and the surrounding countryside was made by the territorialization of jurisdictional prerogatives of the bishops, who, while firmly settled in the city, **(p.18)** were at the head of ecclesiastical districts (dioceses) that also extended throughout the rural world.<sup>4</sup>

The aristocracy, too, not infrequently deployed their own interests within and outside urban centres. And the latter were linked by a thousand other threads to the world of the countryside, thus, for this particular age, blurring any idea of rigid juxtaposition.<sup>5</sup>

It is no coincidence, then, that such a great nineteenth-century intellectual as Carlo Cattaneo should locate, in those centuries of transition between late antiquity and the Middle Ages, the harbingers of that bond between city and territory in which the true common thread of Italian history as a whole can be recognized.<sup>6</sup> Cattaneo was, of course, not blind to the gap between city and country that arose in the post-Carolingian period, but, compared to the long arc of history, it was an interruption that seemed like a parenthesis, and one that was already destined to come to an end with the twelfth century and the ‘conquest of the countryside’ by the communes. According to Cattaneo, in fact, it was in the urban ability to economically and politically subjugate the countryside that there resided ‘the principle that distinguishes the Italian city from the transalpine city in, that is, its intimate union with its territory’.<sup>7</sup>



In reality—as the following pages will try to show—the repercussions of the rupture in the tenth century would be felt for a long time, well beyond the territorial recomposition initiated by city communes in the twelfth century.

A number of varied causes contributed to the break, starting with the decreased ability of the monarchy to politically coordinate the aristocracies. It has been observed, for example, that the end of the expansionary phase of the Carolingian Empire and then its fragmentation into several independent kingdoms had made the relationship between the king and the higher nobility especially difficult. Dissatisfied with the decrease in the quantity of resources that the Carolingians could distribute in the form of land and position, the most important families of the Italian Kingdom had grown increasingly restless, showing their readiness to support the designs of those who, through force, seemed to be able to offer them more. Moreover, in a context marked by the progressive weakening of the monarchy, the conditions had also been created for the gradual entrenchment of counts and marquises in the positions to which they had been appointed. It became increasingly difficult for the weakened kings to replace those who held public office: while theoretically removable, the most important officials of the kingdom tended rather to settle permanently into their positions, making little dynasties of them and passing them on to their offspring.<sup>8</sup>

**(p.19)** It was not, however, only the king's loss of ascendancy with respect to the aristocracy and the crisis of the system of delegated public powers that contributed to the fraying of public organization. At a lower level, in fact, the jurisdictional fabric was rent by the appearance, spontaneous and tumultuous, of a growing number of lords controlling castles. In the climate of instability brought about either by the so-called second invasions (the Saracens, Hungarians, and Normans) or by violence among the kingdom's nobles, these lords found extremely fertile terrain. It has been noted that even where these incursions had not yet developed, new relationships of personal dependence began to take shape owing to the changes within the manorial system (in Italian: '*sistema curtense*, for *curtis* is the standard word for estate in this period'<sup>9</sup>), where the landowner with the greatest estates managed to increase his influence over the peasants, thus transforming himself into a *dominus* (landlord).

The history of these transformations varies depending on the region, but at the beginning of the eleventh century, both the spread of landlords and lords of castles (who exercised lordship over territories in which they did not generally own all the property), and the conversion of major public offices into dynastic systems, could be said to be under way in the Po Valley region. And it was precisely the combined effect of these phenomena that formed the basis of the different political trajectories of city and countryside. In a society where the foundations of power rested less and less on delegation from above, and more and more on landed property and fortifications, both counts and marquises ended up adapting to the situation, abandoning the cities, and settling in rural

areas. In general, they would settle in the area of the county (or march) where they had estates, either through ownership or benefice, where they had a concentration of vassals, and where they too began to build castles. Although lacking royal authorization, these dynasties did not cease to lay claim to the titles they had, whether of count or marquis, which they handed down to their heirs and used to give a semblance of legitimacy to their noble domains, pompously entitled 'march' and 'county', even though these had nothing at all to do with the original public constituencies, whether in terms of boundaries or of grounds for legitimacy.<sup>10</sup>

At the end of the eleventh century, the political severance between city and countryside was firmly established. On the one hand, there was the rural territory, scattered with a multitude of ecclesiastical and secular domains, certain of which were extremely significant in size and even brought with them the rank of prince. **(p.20)** On the other hand, there were the urban centres, where the vacuum of power produced by the departure of the count (generally in the tenth century) had caused the people first to recognize the civil authority of their bishop and then to assume political and government responsibilities more directly, giving rise to the birth of the commune, between the eleventh and twelfth centuries.

As you will see in detail in the following pages, the different political parabolas of city and countryside resulted in the development of different political cultures. To the question, 'Why give obedience to a superior authority?' the answers were not only different, but anchored in different cultural backgrounds. Thus, when the commune's adoption of a public role in the course of the twelfth and thirteenth centuries became increasingly clear, both in the city and in the surrounding territory, conflict was inevitable. This was not only a military clash, but a politico-cultural one, with all the political actors inspired by alternative conceptions of power, whether partial or total. This was especially the case with regard to the nobles of the countryside, but also with regard to the Empire, which, with Frederick I and then Frederick II, sought (in vain) to reassert its authority over the Italic kingdom.

The first part of the present work is devoted to a detailed analysis of these themes.

### Notes:

(<sup>1</sup>) Lazzari, 'Campagne senza città e territori senza centro'.

(<sup>2</sup>) Cividale, Pavia (the capital), Lucca, Spoleto, and Benevento assumed greater importance than other towns in the Lombard Kingdom. Gasparri, 'Il regno longobardo in Italia', 52. With regard to the town-country relationship in the Lombard period, it appears very significant that the term *civis* indicated not only

inhabitants of the urban centre, but also those of the country. Castagnetti, 'Le aristocrazie della Langobardia', in particular 613–14.

(<sup>3</sup>) Sergi, 'Interferenze fra città e campagna nei capitolari'.

(<sup>4</sup>) Wickham, *Central Power and Local Society*, 80 ff.; Jones, *The Italian City-State*, 55 ff.

(<sup>5</sup>) Cammarosano, 'Città e campagna prima del Mille'.

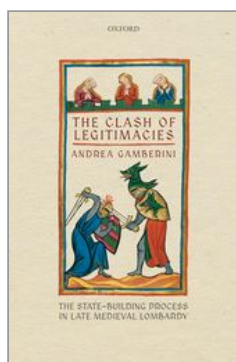
(<sup>6</sup>) Cattaneo, 'La città considerata come principio ideale delle istorie italiane', in particular 432. De Seta, 'Città e territorio in Carlo Cattaneo', 439 ff. But also see Mori, 'I governi delle città italiane fra Antico regime e Unità nazionale'. There is a discussion of Cattaneo's ideas with reference to Lombardy in the late Middle Ages in Gamberini, *Oltre le città*, 9 ff.

(<sup>7</sup>) Delogu, 'Lombard and Carolingian Italy'; Sergi, 'The Kingdom of Italy'.

(<sup>8</sup>) Incidentally, it is worth noting that, despite the fact that the relationship of the counts and marquises to the king was also one of vassal-beneficiary, the fashion of inheriting benefices—another phenomenon typical of those decades—did not in any way help to undermine the public system. For some time, in fact, Italian historiography has recognized that the benefices granted by the king to his public officials, his vassals, in the Italian Kingdom were of a patrimonial kind and had no jurisdictional content: as Giovanni Tabacco observed years ago, it was never the case that the title of count was, at the same time, a position to be remunerated and a remunerating benefice. Tabacco, *The Struggle for Power*, 123–4.

(<sup>9</sup>) On the 'sistema curtense' see Wickham, 'Rural Economy and Society', citation from 130. There is a survey of the large historiographical production regarding landlordship and territorial lordship in Sergi, 'Storia agraria e storia delle istituzioni'. See also Tabacco, *Struggle for Power*, 191 ff., and Osheim, *Episcopal Power*, 9 ff.

(<sup>10</sup>) Provero, *L'Italia dei poteri locali*, 21 ff. Tabacco, *Dai re ai signori*; Sergi, *I confini del potere*, 328–43.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The City Commune and the Assumption of a Public Role

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### Abstract and Keywords

This chapter examines the affirmation of the commune in the context of the urban political scene: first as one of the many forces present in the city (together with the bishop and certain aristocratic families endowed with specific rights and powers), then as a single hegemonic force. In less than a century, the communal citizen passed from an *extra legem* condition to one of full recognition as a public power—something that took place thanks to a complex conceptual work of elaboration that owed much to the clash with Barbarossa and even more to the encounter with the Roman legal tradition. The chapter shows that it was, in fact, on this terrain that the *doctores* built the legal foundations of citizen autonomy: a process which, while slow and non-linear, gave rise to exceptional results.

**Keywords:** Roman Law, city commune, emperor, bishop, power, authority

With typical expressive efficacy, anglophone historiography usually gives the city commune of central-northern Italy at its most mature stage the title of 'city-state' or 'city-republic', thus immediately emphasizing not only its vocation for self-government, but also the new political and constitutional structure that it represented.<sup>1</sup>

(p.22) To be honest, it has long been argued whether the city commune possessed these characteristics from its origins or if they are not rather the result of a later moment. For Gioacchino Volpe, certainly the most authoritative voice in Italian medieval studies in the early twentieth century, the commune was founded as a voluntary association—semi-private, therefore—undertaken by a few families who, through the quasi-hereditary monopoly of the consular magistrature, maintained hegemony in the city until the early thirteenth century. Only at that point, with the advent of the new magistracy of the *podestà* and the organization of the commune into offices and councils, did there come about the 'formation of the commune as a juridical entity, and therefore a great step forwards in the direction of statehood'.<sup>2</sup>

Much of the historiography that followed inveighed against this thesis, emphasizing instead the territorial, and non-personal, significance of the original oath of the *cives*,<sup>3</sup> and the conscious public awareness that inspired the families of the consular aristocracy.<sup>4</sup> For many cities, such as Milan, Cremona, and Pisa, the existence of a strong collective political identity—one that was not, therefore, limited to a particular group of individuals—was demonstrated long before this was consolidated into the institutional forms of the commune. There were already indications of a process of reinforcement of community structure in the tone of certain imperial diplomas of the tenth century, which addressed themselves to all the inhabitants of the city, as well as in the meetings held in the presence of the bishop to deliberate important matters, or in the collective oaths of peace (similar in function to the 'peace and truce of God' movements attested to in other areas of Europe); and this was a process that was certainly initiated before the sources began to bear witness, from the end of the eleventh century to the first decades of the twelfth, to the spread of the magistrature of the consuls.<sup>5</sup> It has been noted, in fact, that it was actually the dynamics of interaction between the *cives* and the superior powers (emperor, bishop) that



Map I.2.1 Communal Italy

favoured the emergence in the city of a collective solidarity with increasingly political connotations.<sup>6</sup>

To be certain of the citizens' progressive assumption of decision-making functions, for example through the formalization of the *colloquium civitatis* (the general assembly), is not also, however, to ascribe to the commune *ipso facto* a genuine origination of a commitment to the doctrine of public law. On the one hand, the maintenance in the Kingdom of Italy, at least until the first decades of the twelfth century, of territorial districts legitimized by the Empire and governed by dynasties with the rank of public officials helped, above all in certain areas (an exemplary case being the March of Tuscany, held by the Canossa family), to curb similar developments. As Chris Wickham observed, it was the collapse of state institutions **(p.23)** during that period that bestowed a new significance on the emerging communal institutions—a significance that, had perhaps not even been imagined.<sup>7</sup>

On the other hand, the original commune was still a very flexible structure, without any pretence to exclusivity. 'It did not presume to monopolize the public functions in the city, nor did it challenge rights of exaction and control (over markets, weights and measures, and tolls) which belonged to ecclesiastical bodies or which were passed in inheritance within the comital or vicecomital families'.<sup>8</sup>

In fact, at least until the middle of the twelfth century, the first commune seems to have been broadly experimental in character: the magistrature of the consuls itself was not always guaranteed continuity, confirming the fact that it initially responded to specific contingent needs: when these disappeared, the institution also ceased to exist.

In order to compensate for the uncertain legitimacy of its origins, the commune also sought support from those who enjoyed a recognized authority, benefiting from their reflected light. Collaboration with legal practitioners—both procedural and doctrinal—thus became of fundamental importance in this context. The commune relied on the public trustworthiness (*publica fides*) of the notaries, who were asked to validate its acts, to compensate for the fact that it had originated outside the legal order.<sup>9</sup>

External figures were at first relied upon for the administration of justice, as in Milan, where the rulings of the consuls were made to be signed by imperial judges, with the Ambrosian institutions thus exploiting the latter's 'charisma of legitimacy'.<sup>10</sup>

In this laborious quest for recognition, communal institutions did not hesitate to ratify (i.e. to admit into trial and therefore to accept) extrajudicial remedies, as in the case of arbitrations carried out by *boni homines* of the highest repute.<sup>11</sup> The end is obvious: on the one hand, the prestige of the arbitrators reflected on

the commune itself and on the other, through the inclusion of so-called infrajudiciary within the legitimate forms of the composition of conflict, the commune obtained the consensus and public recognition that placed it at the apex of the political system.

**(p.24)** It is easy to understand, then, how, in this first phase, communal demands went hand in hand with a healthy pragmatism: while the commune affirmed the public character of the consular courts,<sup>12</sup> it solved the problem of its legitimacy through ‘associating itself with figures who were already endowed with legitimacy’—to the point that Enrico Faini has gone as far as arguing that, fundamentally, ‘the commune of the last decades of the 12th century is a body that is legitimised through its own relationships’.<sup>13</sup>

From this point of view, judges, notaries, and doctors of law (*legum doctores*) made a decisive contribution—but they were not the only ones. The bishop himself, though progressively excluded from the direct government of the city, continued to represent the urban community at public ceremonies or major juridical events in many ways. As for the consuls, in the absence of a *domus communis* (a city hall, generally built at the end of the twelfth century), they often gathered at the bishop’s palace, which also became their base of operations.<sup>14</sup>

The clash with Emperor Frederick I Barbarossa, who came to the throne in 1152 and was determined to reaffirm the imperial prerogatives of the Kingdom of Italy, undoubtedly contributed to marking a watershed in the communes’ acquisition of a more defined institutional profile. The wars with the Swabian sovereign, accompanied by the confrontation with his ideology, were in fact extraordinary catalysts of innovation. On the one hand, the conflict with Barbarossa prompted the communes to refine their still rudimentary system of taxation, introducing new forms of collection and borrowing from imperial legislation—in particular from the *Lex Tributum*, issued in Roncaglia in 1158—the distinction between property and personal taxation (which was then the basis for the introduction of the first communal property taxes or *estimi*).<sup>15</sup> On the other, this conflict led them to conceptualize their territorial expansion and to fix the boundaries of their declared hegemony. In addition, the confrontation with imperial demands helped to lead the communes more decisively towards the adoption of law—and especially Roman law—as the pillar of their institutional framework.<sup>16</sup>

While the urban legal system continued to be highly diversified—the weight of Roman tradition, feudal law, Lombard law, and custom tended to vary from place to place<sup>17</sup>—wherever the phenomenon occurred of consuls adopting, with increasing openness, public functions in the judicial and tax fields, there was the assumption of legal forms that drew, to a far from negligible degree, on the

codification of **(p.25)** Roman law, known as the *Corpus iuris civilis*, promulgated by the Emperor Justinian (528–34).<sup>18</sup>

The lawmakers' contribution did not limit itself to the juridical elaboration of the commune's internal transformations. Their opinions (*consilia*) also proved to be decisive in defining the ability of cities to confederate and act as a collective political subject: the transformation of the Lombard League from a simple *coniuratio* (a collective oath) to a true *corpus* (an institutional body, the *Societas Lombardiae*), endowed with its own institutional apparatus, would have been impossible to imagine without the decisive support of a resurgent and revived Roman law.<sup>19</sup>

And yet, for the moment, the contribution of Roman law to the matter of the new urban institutions here came to a halt. Until the League's military victory forced the Stauffer to recognize the communes, the latter did not even try to use the terms of learned law to define their legitimacy, which instead continued to base itself above all on the sworn pact on which they were established, committed to punishing violations of the peace.<sup>20</sup>

This attitude of the legal experts was not dictated only by prudence with regard to the outcome of the ongoing conflict: the legitimization of powers which had originated outside the system and their coordination with the public structures of the kingdom were in fact challenges that probably went beyond the possibilities of the still young science of Roman civil law. Moreover, on the opposing front as well—that of Frederick, in other words—there was no little difficulty with regard to the conceptualization of royalty in a legal context, with Frederick continuing to rely above all on ideas of sacredness and charisma. The first glossators found themselves greatly perplexed with reference to the possibility of identifying the emperor (*princeps*) of Roman tradition with the figure of the medieval emperor. In short, the great revolution associated with the rediscovery of Justinian law went forward by degrees.<sup>21</sup>

It has thus been noted that the famous *constitutio de regalibus*, issued by Federico Barbarossa during the second Diet of Roncaglia (1158) in order to lay claim to his sovereign rights, shows no Roman influence.<sup>22</sup> Traces of the latter are, however, to be found in the other three laws promulgated by the Stauffer at Roncaglia (and the above-mentioned *Tributum*), but their emanation, far from being the product of the pro-imperial orientation of the famous legal figures of the Bolognese *Studium*, was the outcome of negotiations that had also involved twenty-four *iudices* who came from the communal citizenry. It was, in other words, more 'a diplomatic success' on the part of Frederick I than his unilateral affirmation corroborated by the *doctores*.<sup>23</sup>

**(p.26)** The impression, then, is that the years of conflict between Frederick I and the communes only mark the start of a debate with regard to such



categories as *auctoritas* (authority), *potestas* (legal power), *iurisdictio* (jurisdiction), and *dominium* (dominion)<sup>24</sup>—a debate that was destined to mature above all over the following decades.<sup>25</sup>

Historiography has generally underlined the contribution to this process of the pro-imperial spheres, presented as the only ones committed to the creation of a public law—analogous to what was happening elsewhere in Europe, where the main figures involved were above all the kings<sup>26</sup>—almost as if the ‘original sin’ of the communes (organisms arising *extra legem*, that is outside the law) had kept them from starting a debate on constitutional forms. For a long time, the emphasis was on the pronounced privatistic orientation of the urban world’s juridical production, as if lawmakers had deliberately overlooked the parts of Justinian’s Code dedicated to the *publicum* until well into the fourteenth century. In fact, simply by shifting attention from the academic legal experts to those actually practising—as Emanuele Conte and Sara Menzinger have recently done—it is already possible to observe a different attitude following the Peace of Constance (1183). The figure of Rolando da Lucca, the imperial judge who lived at the turn of the twelfth century, appears somehow exemplary in this sense. In the pages of his *Summa Trium Librorum*, dedicated to Henry VI in 1194, the question of the right to levy taxes—one of the reasons for the clash between Barbarossa and the communes—became part of a broader perspective. If, on the one hand, this led Rolando to trace back the foundations of imperial power to Justinianic law, on the other, it brought him to recognize that city communes, too, had a right to public status.<sup>27</sup> And it is on this latter aspect that it is worth dwelling, to show how from the late twelfth century the commune was considered in para-state terms. Rolando’s task was not an easy one, and his recourse to the *Corpus iuris civilis* problematic: in the *Digest*, in fact, cities other than Rome (*municipia*) were considered as corporations governed by public law but also bearers of private rights, so that they could sue and be sued. But the Luccan legal expert did not give up, and approached the theme from a different perspective. The medieval *civitas* should not be compared to the *municipium*, he says, but to the *Ecclesia*: the institution which, like the commune, tended to the collective interest. Since, in Rolando’s view, ‘sacrae res a publicis non multum different’ (‘sacred things do not differ very much from the public ones’)—as he could read in a passage of Justinian’s *Novellae*—then it followed that even city **(p.27)** communes had a public profile and the taxation they imposed responded to the need to pursue the common good.<sup>28</sup>

The new development here is twofold and rich in consequences: on the one hand, cities are recognized as fully autonomous within the framework of the Empire; on the other, the principle is stated that this independence is not based on an imperial concession (although this had already been granted with the Peace of Constance!), but on the city authorities, on their autonomous capacity to act as interpreters and guarantors of the common good.

Before, in other words, jurists at the end of the twelfth century represented the communal cities openly in terms of public law,<sup>29</sup> and long before Bartolo da Sassoferrato elaborated the famous theory of *civitas sibi princeps* (city is its own prince) in the mid-fourteenth century,<sup>30</sup> the attempt was made in some urban centres to attribute an intrinsic legitimacy to the communes, one that was not indebted to the Empire, and which could establish the new institutions as *res publicae*.<sup>31</sup>

Notes:

(<sup>1</sup>) Jones, *The Italian City-States*; Epstein, *The Rise and Fall of Italian City-States*; Waley and Dean, *The Italian City-Republics*; Ferente, 'The Liberty of Italian City-States'; Scott, *The City-State in Europe*. The expression has been far less popular in Italy. One recent example is Ascheri, *Le città-stato*.

(<sup>2</sup>) Volpe, *Studi sulle istituzioni comunali a Pisa*, 440; Volpe, 'Questioni fondamentali sull'origine dei comuni italiani'. See Cervelli, *Gioacchino Volpe*, 494 ff.

(<sup>3</sup>) Cassandro, 'Comune'; Banti, 'Civitas e Commune nelle fonti italiane'.

(<sup>4</sup>) Maire Vigueur, *Cavalieri e cittadini*.

(<sup>5</sup>) Bordone, *La società cittadina del regno d'Italia*, 194–5; Haverkamp, *Die Städte im Herrschafts- und Sozialgefüge Reichsitaliens*; Keller, *Il laboratorio politico del comune medievale*.

(<sup>6</sup>) Ascheri, 'Un'altra cittadinanza', 311–23.

(<sup>7</sup>) Wickham, *Courts and Conflict in Twelfth-Century Tuscany*, 16 ff. Wickham, *Sleepwalking*. A recent and interesting contribution, which develops some ideas already present in Volpe and Wickham, comes from Faini, *Firenze nell'età romanica*, 262 ff.

(<sup>8</sup>) Tabacco, *The Struggle for Power*, 190.

(<sup>9</sup>) In general, Fissore is worth consulting on this theme: Fissore, 'Alle origini del documento comunale'. More recently, it has been observed that the *publica fides* of notaries at the beginning of the twelfth century was not something taken for granted, but was rather in some way still in the making, and indeed to a certain extent owed its success to the requests for legitimacy produced by the commune. Cf. Milani, 'La fantasia costruirà il potere', 233, following on from Bartoli Langelì, *Notai*, 80.

(<sup>10</sup>) Padoa Schioppa, *A History of Law in Europe*, 115.

(<sup>11</sup>) Even before the transformation of consuls from *amicabiles compositores* (arbitrators) to judges came to fruition, urban courts managed to acquire authority through their ability to include a range of legal remedies (such as bilateral negotiation agreements, arbitrations, sentences). This operation was made possible by the involvement of heterogeneous figures (such as imperial judges, *boni homines* who acted as arbitrators, legal experts), who were also endowed with personal or professional prestige that reflected well on the commune itself. Menant, *L'Italia dei comuni*, 24–5; Faini, *Firenze nell'età romanica*, 276 ff.; Vallerani, *Medieval Public Justice*, 21–7. Menzinger, 'Forme di organizzazione giudiziaria'. On the relationship between jurists and communes and the reading of this provided by historiography, also see Menzinger's important observations, *Giuristi e politica nei comuni di Popolo*, 5–13.

(<sup>12</sup>) Vallerani, *Medieval Public Justice*, 18 ff. It was in fact because of its ability to resolve disputes (or to contextualize and legitimize the solutions offered by others) that the threat of the interdictions issued by the consuls became effective: faced with the possibility of being excluded from the protection provided by city justice, more and more social actors obeyed the pronouncements of the consuls. Milani, *I comuni italiani*, 26 ff.

(<sup>13</sup>) Faini, *Firenze nell'età romanica*, 19.

(<sup>14</sup>) Andenna, 'La simbologia del potere nelle città comunali lombarde', in particular 376 ff. Pellegrini, *Vescovo e città*, 155.

(<sup>15</sup>) Mainoni, 'A proposito della *rivoluzione fiscale*'; Menzinger, 'Verso la costruzione di un diritto pubblico cittadino', clix ff.

(<sup>16</sup>) There is a lucid historiographical account of the relationship between the genesis of the commune and the birth (or rebirth) of law in Italy in the twelfth century in Milani, 'Diritto e potere nel secolo XII'.

(<sup>17</sup>) On the legal system, cf. Wickham, *Courts and Conflict in Twelfth-Century Tuscany*.

(<sup>18</sup>) Padoa Schioppa, *A History of Law in Europe*, 15. But see also Dilcher, 'Fondamenti costituzionali dei comuni italiani e tedeschi', in particular 108. There is a clear account in Conte, 'Res Publica. Il modello antico, la politica e il diritto nel XII secolo'.

(<sup>19</sup>) Raccagni, *The Lombard League*, 125 ff.

(<sup>20</sup>) Dartmann, 'Die Legitimation von Amtsgewalt in den oberitalienischen Städten'. Ascheri is rather more cautious with regard to the role of the sworn pacts, limiting them to just a few cities: cf. Ascheri, 'Un'altra cittadinanza', 316.

(<sup>21</sup>) Dilcher, 'Das staufische Herrschaftskonzept'.

(<sup>22</sup>) Colorni, 'Le tre leggi perdute di Roncaglia'.

(<sup>23</sup>) Conte mentions 'diplomatic success': Conte, 'Diritto romano e fiscalità imperiale', 178. But regarding this theme, also see Conte, 'Federico I Barbarossa e il diritto pubblico giustiniano' and Appelt, 'Friedrich Barbarossa und das römische Recht'; Pennington, *The Prince and the Law*. Some use of Roman materials was made by Barbarossa's chancellery, as some diplomas reveal, but without the notaries active within it seeming to be really influenced by Bolognese culture.

(<sup>24</sup>) Dilcher, 'Das Staufische Herrschaftskonzept'.

(<sup>25</sup>) Mayali, 'Lex animata'.

(<sup>26</sup>) For a long time, historiography identified in the papal monarchy and the instruments offered by canon law a model also suitable for the main European monarchies. Strayer, *On the Medieval Origins of the Modern State*; Tierney, *Religion, Law, and the Growth of Constitutional Thought*; Berman, *Law and Revolution, Les origines canoniques du droit constitutionnel*.

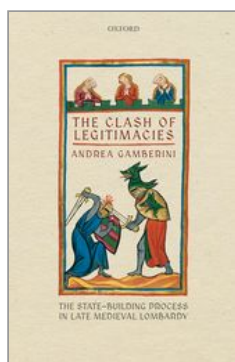
(<sup>27</sup>) Conte and Menzinger, *La Summa Trium Librorum*.

(<sup>28</sup>) Recent research has suggested investigating the relationship between *civitas* and *ecclesia* in another direction, namely that of the development of communal taxation, its ideal structures, and its models of reference. Menzinger and Vallerani, 'Giuristi e città'.

(<sup>29</sup>) The full ideological autonomy of the commune as an institution is, for example, clearly evident in Bologna in the proem to *Il Liber Paradisus* (1256) and from the statutes (1288). Cf. Giansante, *Retorica e politica nel Duecento*.

(<sup>30</sup>) Ryan, 'Bartolus of Sassoferrato and Free Cities'.

(<sup>31</sup>) The analysis of Rolando da Lucca's ideas is in Conte, 'Rolando e il diritto pubblico nel secolo XII', cxx ff.; Menzinger, 'Verso la costruzione di un diritto pubblico cittadino', cxxiv ff.



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# Experimentation and Conceptualization in the Field of Urban Expansion and the Construction of Territory

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## Abstract and Keywords

One of the main manifestations of the commune's ambition to act as a public power was assuredly control over the territory surrounding the city. As this chapter shows, the question was lucidly addressed by the *cives* themselves, who, in the years of the wars against Frederick I, claimed full control over the *comitatus*, despite the territorial conception that the emperor still entertained with regard to diocesan space. It was precisely this conflict between commune and empire that became the litmus test for one of the main clashes between political cultures in the twelfth century.

**Keywords:** City commune, emperor, countryside, political culture, peasant, rural lordship

Among the founding elements of the commune's statehood, one non-secondary item is surely constituted by its territorial projection. The importance of the construction of a large hegemonic space, on which the city began to claim prerogatives of dominion that over time became exclusive, has not only been highlighted by contemporary historiography, which recognized in it one of the foundations of the state, but already seems to find precocious thematization in the twelfth and thirteenth centuries.<sup>1</sup>

From the very outset of their development, city communes felt the need to re-establish the links that *ab antiquo* had bound the city to the surrounding

countryside—going well beyond that stretch of a few miles, the so-called *suburbium*, which had in fact always remained under urban control.<sup>2</sup>

In fact, some of those links, especially those of an economic and social nature, had never completely been broken, in spite of the city's and territory's divergent political parabola. The urban market, for example, had always been a source of attraction for the countryside's products and merchants. However, at the beginning of the new millennium, in the context of more general economic and demographic growth, the relationship between urban centres and the surrounding space once again began to intensify. For expanding *civitates*, it became essential to exercise control over the areas from which their supplies came and on which the investments of the *cives* were concentrated. It seemed no less important to preside over the land and river routes along which traffic moved. The consequence was therefore the progressive expansion of the political space that centred on the city. Initially—as widely demonstrated by a great deal of research—this was conducted in a very empirical way, with no pretensions to organization, and with fairly varied, but generally peaceful, means, such as the targeted purchase of land and castles, which will be discussed. In the consular era, military conquest appears indeed to have been less frequent. At this stage, the commune did not implement a policy aimed **(p. 29)** at achieving direct domination over the territory, but was happy to exercise a form of coordination (or protectorate): sometimes, perhaps, making use of the instrument of vassalage to bind the castle lords to itself; sometimes, through agreements which provided for a division of jurisdictional and fiscal prerogatives with the local lords (*domini loci*), who were offered the opportunity to become *cives* (with concomitant rights and protections) provided that they resided in the city for a certain number of months a year.<sup>3</sup> Indeed, emphasis has also been placed on the interdependence created between the urban drift of the *domini* and the tendency of the *cives* to invest in the purchase of land in rural areas (which in turn prompted the need for more decisive city control over the world of the countryside).<sup>4</sup>

It was not infrequently the same local political actors, from small lords to communities, who sought an agreement with the city commune, in order to escape subjection to the more important rural lords, who were far more demanding than the first commune in terms of tax collection, justice, and labour services.<sup>5</sup>

These were not the only methods followed by city communes in extending their control over the countryside. Recent historiography has admirably reconstructed both the chronology and the spatial localization of the various populating initiatives—such as new privileged communities (*villeneuve*, *borghifranchi*) through which many cities attempted to establish their dominion over strategic

areas—something that was often contested by other political players (opposing communes, lords, etc.).<sup>6</sup>

However, it was only during the years of the conflict with Barbarossa that city communes began to elaborate a true theory regarding the city-territory relationship: something completely new that, at least in theoretical terms, admitted no discontinuities, but contemplated complete control of the urban centre over the diocese.

The shift—at least at an ideal level, that of pronouncement—from a ‘radial’ form of expansion to a ‘perimetral’ model of dominion was in a certain sense a response to imperial attempts to restore the administrative fabric of the Kingdom of Italy.<sup>7</sup> A crucial factor from this point of view was the experience of the Lombard League, when the communes, in order to deal with the danger represented by the Staufer, decided to settle border disputes once and for all, recognizing the territory of its diocese as the limit of expansion of each city. A closer look tells us that districtization by diocese was not an absolute novelty, given that the emperor himself had occasionally called for this in certain diplomas, but for the communes it now took on a totally new significance: in the claims of the cities, in fact, the diocesan boundaries no longer defined the limits of districts within the *Regnum*, but rather defined the political and jurisdictional space of autonomous and independent formations.<sup>8</sup>

In the face of such a deep divergence regarding the way of understanding jurisdictional space, it is no coincidence that in the Peace of Constance—the tone **(p.30)** of which was the outcome of intense negotiations between Frederick I and the communes of the League—the question of the city’s *districtus* over the territory was defined in vague terms, with ambiguity remaining of which the parties could each give their own convenient interpretation. According to Barbarossa’s diploma, the communes were given the customary *regaliae* (prerogatives) carried out ‘tam in civitate, quam extra civitatem’ (‘in the city as well as outside the city’)—without, then, any indication of the boundaries.<sup>9</sup>

For the city communes, the Peace of Constance represented not only the legitimate inclusion in a system of powers coordinated by the emperor,<sup>10</sup> but also the seal of legitimacy on their ambitions to dominate the countryside, and as such was constantly referred to whenever dispute arose in the following centuries. Even in the late Middle Ages, in fact, whenever a city commune found itself with the necessity of justifying its claims of domination over the *contado*, appeal was made to the text of Constance.<sup>11</sup> This was far preferable to communes than the elaborations of those jurists, such as the aforementioned Rolando da Lucca, who had argued the subordination of the territory to the city only on the basis of Roman law.<sup>12</sup>

Notes:

(<sup>1</sup>) Ascheri observes: 'We must get used to considering the Commune as a juridical entity well before the word "state" and the academic doctrine of the legal entity took form. The Commune—like the *Regnum*—used and held public and private rights long before they theorised about the *persona ficta* in the 13th century.' Ascheri, 'Città-stato e comuni', 20.

(<sup>2</sup>) Already noted by De Vergottini, 'Origine e sviluppo della comitatina', 3 ff.

(<sup>3</sup>) In reality, the prospect was not considered particularly attractive by the *domini*, who generally sought to reside as little as possible in the city, or at least negotiate residence conditions that were not over-stringent in terms of the time and investment required. Guidoni, 'Residenza, casa e proprietà'.

(<sup>4</sup>) Cammarosano, 'Il ricambio e l'evoluzione dei ceti dirigenti nel corso del XIII secolo', 25.

(<sup>5</sup>) Pini, *Città, comuni, corporazioni*, 76–81.

(<sup>6</sup>) It is sufficient to refer to the collective work, *Borghi nuovi e borghi franchi*.

(<sup>7</sup>) Degrandi, 'La riflessione teorica sul rapporto città-contado', citation from 160.

(<sup>8</sup>) Ibid.

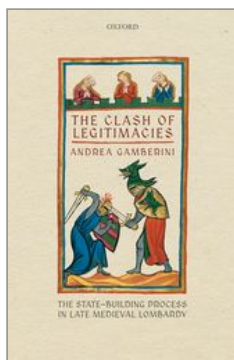
(<sup>9</sup>) *Die Urkunden Friedrichs I*, vol. 4, 1181–90, doc. 848. Regarding the expressly common-law character of the prerogatives granted, it is worth noting that in the claims of the Lombard League there are already frequent references to a golden age of urban self-government, its chronological limits relating to the 100 years between the kingdoms of Conrad II and of Henry V (1024–1025), when, indeed, the autonomy of the *civitates* grew unchallenged. Milani, 'Lo sviluppo della giurisdizione', 23.

(<sup>10</sup>) Tabacco, *La costituzione del Regno Italico*. More in general: *Studi sulla Pace di Costanza*; also *La pace di Costanza (1183)*. More recently, also *Gli inizi del diritto pubblico. L'età di Federico Barbarossa* and Ascheri, 'La "Pace" di Costanza (1183)'.

(<sup>11</sup>) Regarding these aspects, cf. chapter 4.2 of the present work.

(<sup>12</sup>) Conte, *Servi medievali*, 114.





## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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# The Political Cultures of the City and the Territory

## Some Early Affinities

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## Abstract and Keywords

The projection of the city commune beyond the walls raised the issue of confrontation not only with imperial political culture, but also with that of the territorial bodies. The *civitates* initiated a dialogue with the latter which initially valorized those elements in common above all—those, in other words, on which it was possible to build agreements. These ranged from the allodality of power to the culture of possession, to feudalism, etc.—elements consistent with a policy of expansion that in these initial stages generally took place peacefully. One case apart was the political culture of territoriality, which jurists from a later age summed up with the formula *iurisdictio cohaeret territorio*: not unknown to the society of the countryside, it acquired increasing importance only when the civil courts, called upon to resolve jurisdictional litigation between lords, elected it as the ordering principle of the power struggles in the countryside.

**Keywords:** City commune, countryside, rural lordship, power, political culture

The tendency of city communes to extend their dominion over the surrounding territory opened up a confrontation on the level of ideality not only with the Empire, but also with subjects in the countryside, particularly with the many *domini loci* that already at times deployed their power several miles outside the city walls and to whom the expansion of the city brought new challenges.

The twelfth-century sources, which, on the one hand, give a lot space to the jurisdictional conflicts triggered by the invasion of the urban communes, on the other are generally much more laconic with regard to the confrontation that arose on the grounds of the principles of political culture. The aspects most easily observed are those that unite the cities and the countryside, not those that divide them. The reason is simple: the first commune constructed its projection into the *contado* mainly through agreement and understanding with the subjects present. To do this, therefore, in order to avoid incommunicability and conflict it had to exploit shared elements—that is, aspects of political culture in which the actors of the territory, too, could recognize legitimacy. The surviving sources thus bear witness to the ideal motives on which there was agreement (the bricks of understanding, so to speak), while only hinting at the otherness and difference that already existed and that appear in an increasingly marked fashion in the following decades, as, slowly and steadily, the city went on elaborating its own, more mature, political culture. We will come back later to this matter. For the moment, let's focus on some of those elements of shared political culture—certainly one of the most significant aspects of the commune's life in this first phase of its development.

Historians have well understood the reasons that prompted communes to start their expansion into the territory in prevailingly peaceful ways, without resorting to arms. It is clear that the first commune was not prejudgementally hostile towards the world of territorial aristocracies, whose members appeared in some cases to have been integrated into the city's political life since the pre-communal era.<sup>1</sup> It should be added that the commune's military force itself, represented solely by the *cives*, could be mobilized at any time, but the price was extremely high in fiscal terms, **(p.32)** calling for extra taxation. Urban penetration of the countryside was thus initially conducted through peaceful means, but was not, because of this, less effective.<sup>2</sup>

Even just a brief glance at the *Libri iurium* (the city communes' records of legal rights and immunities) reveals, for example, the city's pursuit of a conscious policy of enlarging the *districtus* through the extensive acquisition of land in areas of the *contado* considered important for economic or political reasons. In this way, not only houses, land, and mills, but entire villages, and even castles became part of the communal patrimony. Not infrequently, in fact, it was on the civic allodial property in the countryside that urban communes promoted population initiatives: from Novara to Brescia, from Asti to Vercelli (to mention only the best-studied events) various cities established new towns and villages throughout the territory in order to endow the landowners' allods with even greater political value.<sup>3</sup>

The first commune, then, especially in the first half of the twelfth century, seemed to base its claim of territorial domination 'on the legally defined ownership of castles and surfaces, piazzas and houses and land, and elements of

public authority expressed in generic and composite terms—in short, culturally defined in a far more uncertain way than with respect to the classic privatistic figures of the *ius commune*'.<sup>4</sup>

Implied in the commune's territorial policy is, then, the idea that direct dominance should rest (or 'also' rest) on patrimonial ownership, according to a way of conceiving the fundamentals of political power that was also extremely widespread among the lords of the countryside. Here, therefore, is the first element of political culture common to both city and rural areas: thanks to the research that has been carried out since the 1970s by Cinzio Violante and, above all, by Giovanni Tabacco, we know that the concentration of considerable property also represented for many lords the premise for both the development and the growth of their domain prerogatives. 'This can take the form of rights of protection, justice, and exaction, expressed in terms of *honor et districtus*, that the landlord, on the basis of his own customary usage (sometimes linked with ancient royal concessions of immunity), might claim to exercise over his own peasants, supplementing those rights with the rents and labour services due to him for the land.'<sup>5</sup>

In many cases, it was this concentration of property in the hands of a single owner and the development of those possessions of high dominion prerogatives, according to the process illustrated by Tabacco's example, that was then the basis for further expansion, which followed a logic that was no longer to do with land ownership but truly territorial. It thus happened that the wealth of the *dominus* allowed him to exert increasingly emphatic forms of patronage even over the free allodiaries living on lands close to his, or over the *manentes* (dependant tenants) of other owners.<sup>6</sup>

**(p.33)** In other words, even before castle-building became an extremely widespread instrument of hegemony and of the construction of a space of exclusive dominion, the link between possession and power had produced forms of high dominion. And the city commune of the twelfth and thirteenth centuries, far from breaking that link, recognized it. In 1237, there was a judgment by which the magistrates of Cremona confirmed the right to the abbot of San Pietro Po to appoint the *podestà* of Acqualunga 'in view of the fact that the institution possessed all the lands in the area'.<sup>7</sup>

But the urban commune went even further than this, managing to impose exactly those elements of political culture as cornerstones of its expansion. Still in the middle of the thirteenth century, when high political dominion seemed to be firmly anchored in the culture of territoriality, cities did not hesitate in particularly difficult situations to invoke the culture of possession in order to justify their claims: as Siena did when, in 1261–2, the city declared its full dominion over Montepulciano through the purchase of land and sites.<sup>8</sup>

Sometimes, as in Novara, it was individual *cives* who tried to make use of these principles in order to affirm their dominion over their peasants, rendered uncertain by the cathedral chapter's projects of territorial dominion.<sup>9</sup>

The practice of invoking elements such as these waned hand in hand with the growth of the city communes' adherence to the culture of *iurisdictio* (together with its corollaries, starting with territoriality). However, it was the jurisdictional projection of cities into the territory that seems to have fostered the revival of the culture of possession in lordships that had already been territorialized for a certain time: a conscious policy of land consolidation in the territory of the *dominatus* (where lords bought the land of small owners, regaining their full ownership over tracts that had been leased for a long period of time, etc.) could in fact, in the mid-thirteenth century, represent a valid strategy to compensate for the loss of the highest government prerogatives—worn away through the work of the cities—and thus to preserve forms of dominion over subjects. For example, one rather well-known case is that of the monastery of Sant'Ambrogio and its dominion over Origgio.<sup>10</sup>

In light of such developments, it may also be possible to interpret the content of certain rural statutes in the Po Valley area that are explicit in stating that the tenants were prohibited from alienating the *dominium utile* over leased land to subjects who were not neighbours or *districtabiles* (dependants). There is evident concern here on the part of the owner regarding the possible disintegration of the possession/power nexus on which his authority over the *manentes* depends.<sup>11</sup>

The convergence of city and territory in the field of political culture is also observed in other areas, such as that of feudal bonds. Giovanni Tabacco has already **(p.34)** drawn attention to the use of these instruments by the communes, which were able to bring about political coordination with the centres of aristocratic power in the countryside.<sup>12</sup> From Asti to Cremona, from Tortona to Arezzo, the reading of the *Libri iurium* shows that there were many urban communes that shaped their networks of solidarity through feudal means. The commune, in other words, acted as a collective *senior*, receiving the territories and jurisdictions of territorial aristocracies as a gift and restoring them in feudal forms ('oblato fief'), forcing the contracting party 'a facere fidelitatem sicut vasallus facit domino suo' ('to swear oath of fidelity to his lord just as a vassal does').<sup>13</sup>

Naturally, the political significance of enfeoffment varied from case to case, as the acts of investiture testify, their content never the same and embellished with clauses that personalized the bond. The bond, therefore, that the commune of Piacenza was able to create in 1145 with a great aristocrat such as Oberto Pallavicino—almost an alliance between equals—was quite different from the relationship of subordination that the commune of Brescia established through

feudal means with the small dignitaries of several countryside villages during the early part of the twelfth century.<sup>14</sup> What matters here, however, is that, in one case or the other, what made possible the development of these more or less binding relationships was the sharing of the same culture—a feudal culture, which created a real bridge between the city and the countryside. It was not, in fact, only the concept of feudalism that seduced large sectors in urban society, but that the psychological *habitus* linked to that practice acted in such a powerful way as to permeate the representation of crucial aspects of communal life, such as the fidelity owed by the *cives* to the commune. A section of the Treviso statutes of 1207 (though elaborated at an earlier date) is extremely explicit in this respect, where the obligations of citizens called to the assembly (the *concio*) are represented as *auxilium* and *consilium* (military assistance and political advice).<sup>15</sup> But the same concept was also reiterated some decades later by the *Libro de' vizî e delle virtudi* by the Florentine Bono Giamboni, for whom the citizen 'is naturally obliged to render two things to the city, namely to advise and to assist it: they are obliged to advise, that is to proffer good and forthright advice; and they are obliged to assist, in the event of necessity and danger'.<sup>16</sup>

Feudal culture is, in short, a fully fledged urban culture as well. As Philip Jones says:

Citizens of all ranks, not only feudal magnates or at the other extreme immigrant *villani*, but countless middle-class commoners, lawyers, doctors, merchants, tradesmen, and other *popolani*, continued to hold (and grant out) a mass of rights and and properties (largely ecclesiastical) by various types of fiefs (*feudum rectum, nobile, gentile*); urban legal formularies promiscuously registered 'feudal' beside other forms of contract; and even feudal law was the subject of urban regulation ...

**(p.35)** it is no coincidence that it is through the letters of a *civis*, the Milanese jurist Oberto dall'Orto, that the *Consuetudines feudorum* have been handed down.<sup>17</sup>

If empiricism and pragmatism are the watchwords of communal expansion into the countryside, then it is no wonder that a further area of agreement with important social segments of the countryside was represented by the 'allodial' conception of power (developed by applying the concept of private property to a power, which therefore could be placed on the market). In particular situations—such as those observed by Menant in the Brescia and Cremona areas—the city commune had no hesitation in acquiring (and exercising) *honor* and *districtus* over people and places, acting politically as lords of the area and thus conforming to local political cultures.<sup>18</sup>

But the culture of possession and that of the allodial conception of power were just some of the elements on which city and countryside could converge.

Continuing this analysis of the instruments through which the commune of the consular era managed to deploy its influence throughout the *contado*, particular mention deserves—in view of their great success—to be given to the judicial remedies offered by the *civitas* to quarrelling rural lords, capable of creating a solid bridge between the countryside and the urban world.

In order to understand how cities managed to exploit this method, historians have generally taken the extreme political and judicial fragmentation of the countryside as a starting point. Even a superficial look reveals the generalized and widespread diffusion that marked the territorial aristocracy between the eleventh and twelfth centuries: with the exception of regions with Byzantine traditions (to a large extent the present Romagna) and a part of Tuscany (in which there was a substantial remnant of territorial areas that were public in nature), the countryside of central and northern Italy was covered by noble dominions, which imposed a highly complex network of powers on local society, with repercussions that are easy to imagine. The plurality of constraints that could be imposed on an individual countryman caused not a few problems: whether as a voluntarily contracted bond (perhaps following the renting of a piece of land, with associated duties of service and obedience), or imposed (as was often the case with a bond with the lord of the castle, who could be a different *dominus* from the one from which the rustic was renting the land), or finally hereditarily ascribed. When the stratification of the individual status of the countryman became intertwined with the fragmentation of the prerogatives of the seigneurial dominion, the picture became so complicated as to create a hard-to-unravel muddle.

One of the outcomes of the crisis and dissolution of the public order in the post-Carolingian era was the patrimonialization (or privatization) of the *districtus*, which the grand and smaller lords now considered under their jurisdiction, in the same manner as the allods (as Giovanni Tabacco has shown). They were free to do **(p.36)** as they wanted with them, whether selling them, having them enfeoffed, or dividing them into smaller and smaller hereditary units. It could thus happen that the same village would be split up amongst several lords, some of them holders of extremely small divisions of power. The most serious problems arose, however, when the *districtus* was divided not into compact units, with each of these including all the various prerogatives of a dominion over a place (e.g. high justice, low justice, taxation, military obligations, labour services, etc.), but according to those very prerogatives which were attributed to different owners (e.g. one lord of high justice, another of low justice over certain men, yet another over other men, etc.). A celebrated example reconstructed by Tabacco effectively clarifies this point. In 1174, the abbess of Caramagna and the lord of Luserna—in today's Piedmont—agreed to divide jurisdiction over the places of Caramagna and Sommariva del Bosco. On that occasion, the parties agreed that the lord of Luserna would receive the *fodro* (a form of tax) from both communities (including the men of the abbess), while the division of the right to

succeed to those who died without heirs followed a different criterion: in Caramagna, half went to the lord and half to the monastery, while in Sommariva, it alternated, now to the lord, now to the abbe, depending on whether the deceased was a man of one or the other. With regard to legal disputes, it was agreed that the most serious would be a matter for the lord, whatever the location, while the minor ones would be dealt with by the abbe: completely, in Caramagna (where a territorial division was in place), but only in relation to the men who worked for the monastery in Sommariva (where a personal criterion was observed). As for the fines for those who did not stand guard at the castle, these would go to the lord, while those concerning the non-observance of the other territorial ordinances would be divided between the lord and the monastery.<sup>19</sup>

This case effectively shows how, in real situations, power was frequently broken up, not on a territorial basis, but according to the individual elements that formed it, each of which then went to meet an autonomous destiny of transmission, alienation, and fragmentation.

Similar outcomes were not at all exceptional: the enquiry conducted by Paolo Cammarosano into the territory of Abbadia and Isola is exemplary in terms of the fragmentation of rights and the stratification of norms and customs produced between the tenth and twelfth centuries: 'Rights to the same land can be claimed by its monk owners, the peasants who work it on the basis of custom and inheritance, the members of the local military aristocracy to whom the land and its revenues were enfeoffed, sometimes also by figures at an intermediate level, such as citizens or the wealthiest exponents of rural society, who had rights on the same land on the basis of a leasing contract, a guarantee of credit, or simply custom.'<sup>20</sup>

Jurisdictional configurations were highly complex, with territorialized rights intertwined with obligations of a personal kind, and in which the various divisions of power (and even the individual prerogatives with which this was expressed) could be claimed by drawing on a wide variety of legitimating grounds—grounds that ranged from imperial concession to local custom, from feudal succession to **(p.37)** voluntary submission. The situations that resulted were often extremely entangled. Disputes and protests regarding these issues were therefore frequent, virtually continuous in fact, aided and abetted by the tendency of the parties to exploit the plurality of bonds and the ambiguity of the situations to try to redefine the economic relationships or conditions of servitude to their own advantage.

It was precisely on this ground that cities, skilled at offering their own judicial remedies to disputants, were able to carve out even more space for themselves for ever-greater intervention in the political life of the countryside. The trust of the parties in certain influential *amicabiles compositores* (arbitrators) active

within the city walls, and above all the professionalism of the urban magistrates (who, thanks to the resurgence of Roman law, were able to give exhaustive answers to problems otherwise difficult to resolve, as will be seen below),<sup>21</sup> turned out to be factors that could bring many countryside disputes into the sphere of the *civitas*. This occurred to the point that the resolution of this kind of litigation became a formidable instrument through which communes could deploy their influence throughout the world of the countryside.

For the historian, this involvement of the urban courts in countryside disputations casts a fascinating light on the elements of political culture that were widespread at the time of the first communes: both on those that the urban political players adopted as criteria for judgment and on those of the rural world.

Certain case studies, analysed by Giuliano Milani, have shown, for example, that, when their skills were called upon in a matter of litigation between lords regarding *districtus* (the power to command), the city magistrates generally employed various arguments, which were however based on 'two sound ideas':<sup>22</sup>

- 1) justice must be exercised in relation to a territory and not in relation to single individuals;
- 2) the *districtus* must be demonstrated through prolonged use (*praescriptio*), even prevailing over imperial concessions.

The success of this line has been rightly seen as due to the convergence of interests of the main political actors on the scene. On the one hand, there were the strongest of the rural lords, who, by virtue of the criteria adopted by the urban courts, while losing external jurisdictional dependencies, those farthest from the heart of the *dominatus*, managed to annul the *enclaves* within them, thus producing a more compact dominion. And on the other hand, there was the city, for which legitimizing jurisdiction on the basis of prolonged use and anchoring the prerogatives of command to the territory, rather than to the people, meant laying the groundwork for the claim of high urban dominion over the entire territory of the bishopric, resulting in the outcomes illustrated in the previous section.

In the light of these elements, it will be clear that the cities, at least initially, were doing themselves a favour by not adopting a line that was openly adversarial **(p.38)** towards the political cultures of the countryside. The decisions of the city magistrates were based, in fact, on a knowledge and acceptance of local customs. And yet, from amongst the many elements applicable in the rural world, the city picked out one—the one that was seen to be closest to its own political culture and most suitable for its purposes—and made this the organizing principle: the principle of territoriality, summed up by



jurists of a later era in the brocard *iurisdictio cohaeret territorio* (jurisdiction is embedded in territory).<sup>23</sup>

It is worth noting that if, in practice, the pronouncements of the city magistrates were not always really able to invalidate the obligations of a personal nature in force in the countryside,<sup>24</sup> the new system was of no little significance, standing as the first strong intrusion of the nascent city-state into the world of custom that reigned in the *contado*.<sup>25</sup>

The principle of territoriality, the culture of possession, and the ‘allodial conception of power’ were, however, not the only elements to define a common background to the nascent city-state and broad sectors of rural society. At least one other aspect existed, to which attention has been drawn in a penetrating study by J.-C. Maire Vigueur, and that is the system of values—the political implications, as we shall see, being extensive—that the urban elite shared with the elite of the countryside.<sup>26</sup>

Although the leaders of the city communes and the rural aristocracies were, until the end of the twelfth century, almost everywhere still two largely separate worlds, the ethos that drove them had common roots. Long before the start of the process of merger and integration—which Maire Vigueur dates back to the early years of the thirteenth century, when urban aristocracies sought to procure castles and jurisdictions in the *contado*, in imitation of the territorial aristocracies, and the latter moved into the cities in imitation of civic elites—the two groups seemed to develop living habits and ideals that were very similar.

This was a result that was brought about, first of all, by the practice of combat on horseback, which was common to both groups: one in arms for the commune, the other for the bishop or the monastery of which they were vassals (and from which they had obtained in fief landed estates and, sometimes, a part of the jurisdictions that they exercised). And it was around this military function that there began to develop a real ideology of the *militia*. In fact, only one section of the citizens—the richest, who could afford all the necessary equipment (horses, squires, **(p.39)** and servants etc.)—participated in the *militia*, while the rest made up the infantry (*pedites*), employed as guards for the walls and to be mobilized when required. It was, therefore, the wealthiest portions of the citizenry—the same figures, it should be noted, that monopolized the office of consul, the supreme communal magistrature—who developed the warrior ethos that represented, at an ideological level, a truly binding class-based connection.

While some in the *milites* were involved in trade or were the owners of well-established artisanal enterprises, war represented an identificatory element, from which they derived not only social recognition and prestige, but also a precious source of revenue, thanks to booty, the ransoms requested for the release of prisoners, rewards, compensation guaranteed by the commune, etc.

A close analysis of the two social groups makes it possible to grasp their profound affinities and commonalities. In the same way as the territorial aristocracies, the city nobility, too, were involved not only in large-scale conflicts, those that aimed at the conquest and subjugation of the enemy, but also mounted forays—raids that carried either a symbolic purpose (for example, making a claim over a space or territory) or an economic aim, robbery.<sup>27</sup> And when the *milites* were not engaged in real combat, they carried out simulations in jousts and tournaments, ritual forms in which the knights' world held up a mirror to itself and the participants indulged in mutual recognition, reiterating discontinuity with respect to those who did not take part.<sup>28</sup> There is the famous story of social camouflage—studied years ago by Giovanni Tabacco—involving Ughetto da Sarna, a serf of the abbey of Santa Fiora, who at the beginning of the thirteenth century moved to the city. Here, the adoption of the *mos nobilium* (the nobles' customs), evidently made possible as the consequence of a certain level of financial prosperity, allowed him to pass for a *miles*.<sup>29</sup>

But the affinities go far beyond this. As with the noble lineage of the *contado*, the urban *milites*, too, shared what was called 'the love of hatred'.<sup>30</sup> The language of social relationships is invigorated by the dichotomy of *amicitia/inimicitia*, with the first element decisively subordinate to the second. Transmitted to their children through the pedagogy of example, the culture of conflict was compounded into violence both towards rival households and towards the lower levels—whether *pedites* (the *cives* who fought on foot) or *rustici* (peasants)—when they seemed to be getting too big for their boots. In the world of the *militia*—both urban and rural versions—the memory of any offence was carefully cultivated, giving rise to a lengthy stream of feuds, vendettas, and wars—as they are expressly called—in which the primary task involved the restitution of violated honour.

**(p.40)** It will be observed, also as a result of the studies by Andrea Zorzi, that the 'culture of vendetta' did not remain the exclusive prerogative of the elites, but soon, through a process of imitation, extended to the subordinate classes as well—at least, to all those who were in possession of the resources, both material (goods, wealth) and intangible (social relationships), required to support the high costs of such practices.<sup>31</sup>

Using this perspective, it is easy to understand why the education of a good citizen was also an education in *vendetta*, as shown by the variety of moral and pedagogic literature produced by Italian communal civilization between the thirteenth and fourteenth centuries. From Bono Giamboni's *Libro de' vizî e delle virtudi* to Brunetto Latini's *Tresor* and *Tesoretto*, the importance of *vendetta* and its social function is everywhere emphasized—it is seen as the true governing principle of civil life (and as such, the creator of tradition).<sup>32</sup> Those who did not seek revenge were subject to derision: as Dante himself found, mocked in a

sonnet by his friend Forese Donati because he had not yet avenged an offence suffered by his father Alighiero.<sup>33</sup>

It was only at the end of the Middle Ages that royal legislation and city statutes ceased to legitimize the culture of *vendetta* which, while still practised, no longer enjoyed public recognition.<sup>34</sup>

What took shape during the twelfth century was, therefore, a culture of conflict that, beginning with the higher levels, united large segments of urban and rural society. The effect of this on subsequent political dynamics will be extensively illustrated in the following sections.

### Notes:

(<sup>1</sup>) Jones, *The Italian City-State*, 106; Wickham, *Sleepwalking into a New World*, and above all Grillo, *Milano in età comunale*, 277, who recalls, however, that the Seprio and Martesana families remained extraneous to the communal affair of the Ambrosian city.

(<sup>2</sup>) A survey in Grillo, 'Comuni urbani e poteri locali'.

(<sup>3</sup>) *Borghi nuovi e borghi franchi*; Rao, 'Beni comunali e governo del territorio'.

(<sup>4</sup>) Cammarosano, *Tradizione documentaria e storia cittadina*, 39. In this sense, it has been possible to observe that 'the commune was an assembly of the communal goods, its lands, walls, roads, circulating money, inhabitants and *cives*'. Vallerani, 'Logica della documentazione e logica dell'istituzione', 110.

(<sup>5</sup>) Tabacco, *The Struggle for Power*, 195; Violante, 'La signoria rurale nel contesto storico dei secoli X-XII'.

(<sup>6</sup>) Provero, *L'Italia dei poteri locali*, 61. Regarding the conceptual debate, it is worth looking at the collective work, *Pour une anthropologie du prélèvement seigneurial*.

(<sup>7</sup>) Grillo, 'Comuni urbani e poteri locali', 66.

(<sup>8</sup>) As shown by Cammarosano, *Tradizione documentaria e storia cittadina*, 40.

(<sup>9</sup>) Andenna, 'Formazione, strutture e processi', 127 ff.

(<sup>10</sup>) Violante, 'Presentazione', XVI. This policy was often accompanied—the phenomenon was observed above all in Emilia and Tuscany—by the introduction of new taxes that were so heavy as to reduce the peasant population to a virtual state of servility. Violante, 'La signoria rurale nel contesto storico dei secoli X-XII', 36; Panero, *Servi e rustici*, 55 ff.

(<sup>11</sup>) Noted by Grillo, *Comuni urbani e poteri locali*, 66, following on from the research collected in *Statuti lombardi del secolo XIII*.

(<sup>12</sup>) Tabacco, *The Struggle for Power*, 215–16.

(<sup>13</sup>) Bordone, 'Lo sviluppo delle relazioni personali nell'aristocrazia rurale', in particular 247–9; Degrandi, 'Definizioni teoriche e prassi di governo'; Jones, *The Italian City-State*, 560.

(<sup>14</sup>) Albertoni and Provero, *Il feudalesimo in Italia*, 106 ff.

(<sup>15</sup>) The statute cited is noted by Tanzini, *A consiglio*, 14–15.

(<sup>16</sup>) Giamboni, *Il libro de vizî e delle virtudi*, 112.

(<sup>17</sup>) Jones, *The Italian City-State*, 560. See also Andenna, 'Dall'Orto Oberto'; Wickham, *Sleepwalking into a New World*, 56 ff. Moreover, the close connection between the urban world and the feudal world had already been pointed out by Keller, *Signori e vassalli*.

(<sup>18</sup>) Menant, *Campagnes lombardes*, 515. On the allodial conception of power see Tabacco, *The Struggle for Power*, 159.

(<sup>19</sup>) Tabacco, *The Struggle for Power*, 195–6.

(<sup>20</sup>) Cammarosano, *Abbadia a Isola*, 131.

(<sup>21</sup>) Milani insists on the new quality of the urban courts' judicial remedies. Cf. Milani, 'Diritto e potere nel XII secolo'. Also Wickham, *Courts and Conflicts in Twelfth-Century Tuscany*, 40 ff.

(<sup>22</sup>) Milani, 'Lo sviluppo della giurisdizione', 29 ff.

(<sup>23</sup>) Sergi, 'La territorialità e l'assetto giurisdizionale'; Vallejo, *Ruda equidad*, 128 ff.

(<sup>24</sup>) Tabacco observes that the seigneurial dominions were not juxtaposed with one another 'with strict territorial boundaries ... They were zones of influence radiating from visible nuclei of force castled throughout the land, discontinuous zones, often overlapping one another, spheres of military protection and humble local government or of a high or low seigneurial jurisdiction. Boundaries existed, but they were fluid.' Cf. Tabacco, 'La costituzione del Regno Italico', 163.

(<sup>25</sup>) Regarding the social profile of judges and jurists, and the thousand links that connected them to the urban world, and its culture and interests, see §1.7. As of now, however, it will be necessary to ask ourselves whether the choice of territoriality on the part of the urban magistrates was not also an influence on the *habitus* of the *cives* to think of the unitary nature of political space, as it was, or as it was developing to be, within the city walls.

(<sup>26</sup>) Maire Vigueur, *Cavalieri e cittadini*. Only in Milan and a few other centres did the integration of urban *milites* and rural *milites* precede 1200. However, with regard to the urban *milites*, see also Gasparri, *I milites cittadini*.

(<sup>27</sup>) All manifestations that remained unchanged in the following era, as shown by the famous treatise on war by Theodore Palaialogos, Marquis of Monferrat. Cf. Settia, 'Gli "Insegnamenti" di Teodoro di Monferrato'. See in particular *Les enseignements de Théodore Paleologue*, 80.

(<sup>28</sup>) Regarding the rites of chivalry in an Italian context, Gasparri, *Milites cittadini*, especially 1–91. Also Balestracci, *La festa in armi*.

(<sup>29</sup>) Things did not go so well for Ughetto's children: cf. Tabacco, 'Nobiltà e potere ad Arezzo', 1–24; Scharf, *Potere e società*, 394–5.

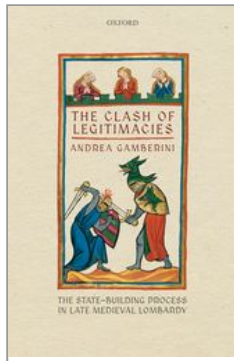
(<sup>30</sup>) Maire Vigueur, *Cavalieri e cittadini*, 398 ff.

(<sup>31</sup>) The thesis of the imitation of aristocratic behaviour by subordinate classes is put forward by Maire Vigueur, *Cavalieri e cittadini*, 388, 417. The fact that vendetta was not exclusively class-based is noted by Zorzi, 'La cultura della vendetta'; also id., 'La legittimazione delle pratiche della vendetta'; id., '“Fracta est civitas magna in tres partes”', 73 ff.

(<sup>32</sup>) Zorzi, 'La cultura della vendetta'.

(<sup>33</sup>) Niccoli and Diurni, 'La vendetta privata in Dante'. But, more generally, see the many examples mentioned by Onori, 'Pace privata e regolamentazione della vendetta'.

(<sup>34</sup>) Gentile, 'Cultura della vendetta', 288.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## Some Cornerstones of City and Communal Ideology

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### Abstract and Keywords

This chapter focuses on the originality of the communal political experience, which took shape around the horizontal ties between the *cives*, whose strength was able to break the traditional nexus between power and social pre-eminence, even that of the emperor himself. *Libertas*, in terms of political autonomy based on custom, then became one of the structuring words of the great narrative elaborated by the communes, part of a broader ideology of civil life that, through an ancient lexicon (*consul*, *res publica*, *iurisdictio*, etc.), articulated a completely new kind of content. The chapter then focuses on the threshold represented by the advent of the *Societas Populi*, which introduced the category of *bonum commune*.

**Keywords:** Liberty, city commune, jurisdiction, Roman law, power

Notwithstanding some significant common features, at the beginning of the twelfth century the city and the *contado* remained two profoundly different worlds. They were divided not just by different forms of political organization but by the very principles on which the political organization of society was based. This chapter takes a closer look at these, beginning with the city.

While throughout the rest of Europe the populations were in a position of total subordination to a lord or a sovereign, the cities of central-northern Italy practiced a form of self-government, which not only did not recognize

any superior authority to its own, but allowed a large part of the population to participate in power.<sup>1</sup>

From a comparative point of view, the peculiarities of Italian communal experience surely lie in these aspects. It is not by chance, therefore, that the themes of independence from external constraints (*libertas*) and of the extensive level of participation in political life also represented the pivotal elements around which, from the very beginning, the city-state ideology developed.<sup>2</sup>

The importance that the idea of *libertas* had for the people was registered by a contemporary observer—and one who was certainly not sympathetic to the communes: the bishop Otto of Freising, uncle and biographer of Emperor Frederick I Barbarossa. The bishop noted: ‘the Lombards so love independence that they prefer to be governed by the whims of consuls rather than by lords’.<sup>3</sup> Along the same lines, Otto’s successor, Rahewin, commented that, during the imperial siege of Milan, many citizens preferred to die ‘pro libertate patriae et honore civitatis’ (‘for their country’s independence and for the honour of their city’) rather than surrender.<sup>4</sup>

**(p.42)** For the inhabitants of the cities of Lombardy, *libertas*, in the sense of political independence and self-government, was in fact a truly traditional custom, the precious legacy of their fathers, great-grandparents, and forebears, as an ambassador of the Lombard League was able one day to declare.<sup>5</sup> And so, when Barbarossa put forward his claims, the communes demanded respect for the *consuetudo* which had been formed in the hundred years between the advent of Conrad II (1024) and the death of Henry V (1125).<sup>6</sup>

As Robert L. Benson observed, ‘after 1154, in any case, the word *libertas* is everywhere’, from political poetry to pragmatic and legal texts.<sup>7</sup> In short, it became one of the cornerstones of communal ideology, a structural element in the ‘great narrative’ elaborated by the city-state. There was, for example, the professor of rhetoric Boncompagno da Signa, for whom the Lombards ‘are patrons of their freedom, excellent defenders of their rights, as is just for those who have had to fight in order to ensure their freedom; deservedly are they called the senators of Italy.’ And also: ‘We know from the ancients and we have heard from our fathers that our true inheritance is not gold, but the arms with which we guarantee the freedom of our country. Yea, for us our gold is liberty.’<sup>8</sup>

Such rhetoric reaches its culmination in the years of the conflict with Frederick II, and the mythical but reassuring memory of the resistance against Barbarossa led the communes of that period to look to Milan as the ‘totius libertatis patrona’.<sup>9</sup>

To be a *civis*, however, was not only to be free: it also meant participating in the political life of a community, such as that of the city, which acknowledged a pact of peace as a founding element (often more mythical than real),<sup>10</sup> and which on

this basis had been constituted as a corporate entity (*universitas*). This was a term that came into use at a certain point, borrowing a Roman category which, while on the one hand, it laid the foundations for establishing the new political community as a *persona ficta* (artificial person), on the other, conveyed the idea of the equal and horizontal participation of residents in the urban territory **(p. 43)** (without, therefore, yet contemplating those graduations of status among the *cives* that would appear only in the mid-thirteenth century).<sup>11</sup>

This was an exceptional new development. As Paolo Cammarosano observed several years ago, the constitutional progress of the cities (in particular the spontaneity of assembly) put an end to the nexus—hitherto taken for granted and devoid of alternatives—between the exercise of noble prerogatives and political power, between social pre-eminence and command.<sup>12</sup> On top of that, the acquisition of public functions by assemblies with a high level of (usually self-convoked) participation also challenged the vertical and top-down conception of power that at that time the Empire was trying to assert: it was therefore also with his thoughts going to the city *conciones* that at Roncaglia (1158) Barbarossa inveighed against ‘gatherings and all associations both within and outside the cities’.<sup>13</sup>

The cultural structures that lay behind the primitive communal ideology were something that Otto of Freising had once again taken note of: citizens ‘live for the administration of public affairs in imitation of ancient wisdom, of the earnestness of the ancient Romans’.<sup>14</sup>

The importance of this retrieval of the antique past, already remarked by observers at that time, is also confirmed by a quick look at the political and legal lexicon employed: *consul*, *res publica*, *prescriptio*, *iurisdictio*, *municipia* ... The idea of *libertas* was expressed and then developed by the communes through formulas from Roman republican tradition.<sup>15</sup> The point, then, is this: the political and juridical culture of Rome, surviving through the centuries of the High Middle Ages, provided, at the dawn of the twelfth century, the conceptual bricks and linguistic tools with which to conceive and then mould—but in a completely new and original way—political relations in the cities.

Alongside several concepts (such as *libertas*) destined to invigorate communal ideology for centuries, there were others that made their appearance at specifically defined moments, accompanying and guiding certain stages of political and institutional transformation. This was the case, for example, at the beginning of the thirteenth century, at the time of the affirmation and diffusion of the *podestà*-run regimes: these, to a certain extent everywhere, supplanted the consular regime, which was overwhelmed by the struggles between the *milites* and the emerging examples of participation by the lower classes. The advent of the new political system, centred on the *podestà*/council duality, brought with it a decisive expansion in communal prerogatives, which came with



a new determination to bring a sense **(p.44)** of order to the whole urban world. At a time when the bishop and certain families still retained fairly large quotas of public rights in the city (relating to weights, tolls, duties, etc.), and when the great dynasties of the *contado* often dealt with the communes as equal to equal, while perhaps choosing not to join with it in any way, the political pluralism of the consular era came into question. In fact, communal intolerance of competing jurisdictions, beginning with those of the secular lords and the Church, began to grow.<sup>16</sup> But more generally it was the influence exerted by the commune on the whole of urban society that made it stronger, thanks to the development of a bureaucratic apparatus that, on the one hand, became increasingly complex and variegated (offices multiplied, such as custodians, treasurers, accountants, urban police officers, communal employees, etc.). In Pisa, just to give one example, the number of public officials rose from 91 in 1162 to 870 in 1257!<sup>17</sup> On the other, the bureaucratic apparatus was flexible enough to integrate and coordinate all the political players willing to act at an institutional level. For those instead who—like many *milites* or *societates militum*—rejected the quest for consensus pursued by the *podestà*, it was a matter of banishment and estrangement.<sup>18</sup>

Unlike the consular commune, which shared the representation of the political and economic interests of citizens with other urban actors (e.g. the bishop, a large monastery), the *podestà*-run commune saw itself as a tendentially hegemonic subject: it did not accept the idea of being merely one actor (though the most important one) amongst others—it aspired to be the only one. And it mattered little that the conflict in the age of Frederick II distorted the non-partisan role of the *podestà* and the political project that inspired the institution. The legacy, in terms of ideality and constitutional developments, remained a fertile one.

Behind these transformations, it is not difficult to observe the emergence of a new political culture, focusing first of all on the respect for rules that were valid for everyone (including those groups, such as the *militia*, inclined to resolve political confrontation with violence) and that were, above all, definite (and for this reason were written down in the statute books).<sup>19</sup>

Within the political discourse developed by the city-republic at the beginning of the thirteenth century, a prominent place was occupied by the elected officials, magistrates, and legislators, elevated to the councils because of their particular personal characteristics (behaviour, temperament, ethics) that made it possible for them to fulfil the obligations associated with their function.<sup>20</sup>

So the seeds of the culture of legality are already present—the culture that the *Societas Populi* elected as the guiding principle of political action once in power. **(p.45)** The innovative feature of Popular regimes—established in power in many cities from the second half of the twelfth century—was to introduce this

culture of legality into the sphere of institutions, then recognized as the only designated place for confrontation. As Enrico Artifoni's extensive research has highlighted, the culture of the *populus* (*Societas Populi*) can in fact be defined as a true 'institutional culture'. It is a political culture, in other words: one that identifies in councils and magistrates—in this era exponentially increased—the structures that give form to the new idea of politics.

Pacifying the aristocratic factions;<sup>21</sup> moving confrontation from the streets (where it tended to manifest itself in acts of violence) to the councils (where detailed rules kept dialectic order, controlling not only the duration of the interventions, but also their content, which was not allowed to be offensive);<sup>22</sup> counteracting the arbitration of the most powerful with rules and procedures, which could be verified at any time, thanks to the extensive transcription of official documents (council minutes, court records, administrative practices, etc.); transforming crimes against the individual into crimes against the community: these were just some of the programmatic points on the agenda of the *Popolo*.<sup>23</sup>

However, redefining the foundations of the political community meant redrawing the boundaries anew. In this way, the popular government came to reshape the very idea of citizenship itself: it was no longer defined solely on the basis of residence and the fulfilment of military and fiscal obligations towards the community, but was now tightly intertwined with how closely personal behaviour adhered to the social model proposed by the *Popolo*.<sup>24</sup> The relational nature of citizenship, which was in fact present from the very origins of the commune (paying taxes or taking part in the army were social generators of trust and activating ties), now found itself strengthened and extended into new areas. The political credibility of the individual, and his *fides* (reliability) in the economic field, then became the new markers of the perimeter of *civitas* (citizenship). At its highest level (corresponding to the completeness of civil and political rights), this became the de facto privilege of a minority.<sup>25</sup> For all the others, the conditions of citizenship that opened up were scant, and could culminate in the negation of many privileges connected with *civitas* and therefore in marginalization and expulsion from the *civitas*: a fate which befell the political enemies of the *Popolo*, condemned as magnates, but also those social groups that were judged to be unreliable: pimps, prostitutes, beggars, etc.<sup>26</sup>

All in all, it was a real project of disciplining applied to the community's social and political customs. Initiated in the 1280s, it also involved the reuse of those **(p.46)** class- or territory-based oath-taking associations (guilds, confraternities, local armed societies) that once were 'the very symbol of communal pluralism', the associative spontaneity of urban society. Now, they had become an effective means of enforcing behavioural conformism. Any citizen who was not noble or who had not previously been excluded by the *Popolo* for their conduct was in fact required to enrol in one of these associations. The *Popolo*'s government placed a

dual task on the latter: monitoring individual behaviour and the promotion, through special rituals (assemblies and processions), of the pedagogy of the good citizen.<sup>27</sup>

The institutional platform on which the *Societas Populi* moved politically was often that of the commune—where the *populares* sooner or later succeeded in being widely represented, above all in the councils and official positions—even though they did not limit themselves to it. The structures of the *Pars Populi* were absolutely central to the new political system, and, even though these structures were created in imitation of those of the commune (the *Popolo*'s councils, the rector of the *Popolo*, the Statute of the *Popolo*, etc.), they established with the latter a relationship of interference and at times open competition.<sup>28</sup>

And it is worth dwelling on the consequences of these developments. If the formation of a *Popolo*'s society determined, at a procedural level, the shattering of the political body (with the multiplication of decision-making places and the commune's loss of important public functions), nevertheless at the level of ideality there was no rift in the unity of the *civitas*. On the contrary, it was actually strengthened, in the name of values that were new and even higher than those of the commune. In the eyes of the *populares*, in fact, the *podestà*-run commune appeared to be an institution irrevocably linked to the aristocratic world, and therefore partial. In this perspective, therefore, it was the *Popolo* that incarnated the totality, precisely because the *bonum commune* that it declared as its aim benefited everyone, *milites* included.<sup>29</sup>

Notes:

(<sup>1</sup>) Maire Vigueur, Faini, *Il sistema politico dei comuni*, 1. Maire Vigueur's statement is, however, perfectly consonant with what was written by Brunetto Latini (*Le livre dou Trésor*, 577): '[Ceux qui gouvernent les villes] sont de deux manières: une qui sont en France et es autres pais qui sont sozmis à la seignorie des rois et des autres princes perpétuaes, qui vendent le prévostez et le baillent à ceulx qui plus les achatent; po gardent ne lor bonté ne le profit des borjois; l'autre est en Itaille, que les citeien et li borjois et les communes des villes eslisent lor seignor tel comme ils cuident qu'il soit profitables au commun profit de la ville et de touz ses subjez.' See Gilli, 'Cité et citoyens', 33.

(<sup>2</sup>) There is a general overview in Benson, 'Libertas in Italy (1152-1226)'. More recently: Ferente, 'The Liberty of Italian City-States'.

(<sup>3</sup>) 'Denique libertatem tantopere affectant, ut potestatis insolentiam fugiendo consulum potius quam imperantium regantur arbitrio.' *Ottonis et Raewini gesta Frederici I imperatoris*, 116.

(<sup>4</sup>) For the analysis of this source, see Ascheri, 'Città-stato: una specificità, un problema culturale', especially 8-10.

<sup>(5)</sup> Ibid. But on the concept of freedom in the Italian communal world, see also Skinner, *The Foundations of Modern Political Thought*, I, 3 ff.

<sup>(6)</sup> On liberty as *consuetudo*, see Milani, 'Lo sviluppo della giurisdizione', 22–3, and Ascheri, 'Città-stato: una specificità, un problema culturale', 8 ff.

<sup>(7)</sup> Many examples in Benson, 'Libertas in Italy (1152–1226)'. Citation from 195.

<sup>(8)</sup> Taken from Ascheri, 'Città-stato: una specificità, un problema culturale', 11. Also Benson, 'Libertas in Italy (1152–1226)', 204.

<sup>(9)</sup> Hermes, *Totius libertatis patrona*, 1–3. Also Alberzoni, 'La distruzione di Milano nella memoria comunale', 53.

<sup>(10)</sup> From this point of view, it matters little if there was indeed an oath made by the first *cives* that laid the foundations for the new communal political subject, as early twentieth-century historiography believed. Although testimonies to these collective oaths are generally belated (some decades after the birth of the communes) and are above all aimed at helping to reinforce the identity of the group and the obligations of the individual, this does not detract from the fact that the statute represented and expressed both the collection of local customs and the 'local specific pact on which the communal *universitas* was based'. Ascheri, 'Città-stato e comuni: qualche problema storiografico', 22; Keller, 'La responsabilità del singolo e l'ordinamento della comunità', especially 71–3. On the importance of peace (*pax*) in the ideology of urban society, see also Dessì, 'I nomi dei guelfi e ghibellini', 9.

<sup>(11)</sup> In general: Ascheri, 'Città-stato e comuni: qualche problema storiografico', 23. Regarding *persona ficta* cf. Conte, 'Roman Law vs Custom', 47 ff. Also Michaud-Quantin, *Universitas. Expressions du mouvement communautaire*. On the evolution of citizenship and its disintegration into a plurality of *status*: Grillo, 'Da diritto a privilegio'.

<sup>(12)</sup> Cammarosano, *Studi di storia medievale*, 214.

<sup>(13)</sup> Cf. 'conventicula quoque et omnes coniurationes in civitatibus et extra', *Ottonis et Raewini gesta Frederici I imperatoris*, 116. *Constitutiones et Acta Publica Imperatorum et Regum*, I, 245–6. The text is also cited by Tanzini, *A consiglio*, 10.

<sup>(14)</sup> 'In civitatum quoque dispositione ac rei publicae conservatione antiquorum adhuc Romanorum imitantur sollertiam.' *Ottonis et Raewini gesta Frederici I imperatoris*, 116.

<sup>(15)</sup> All aspects well illustrated by Ascheri, 'Città-stato: una specificità, un problema culturale', 9.

<sup>(16)</sup> As amply shown by Baietto, *Il papa e le città*. Also Koenig, *Il 'popolo' dell'Italia del Nord*, 233 and ff.

<sup>(17)</sup> Maire Viguer, Faini, *Il sistema politico dei comuni italiani*, 97. Milani, 'Il peso della politica sulla mobilità sociale', 412-13.

<sup>(18)</sup> As happened at Verona in 1228. Found in Milani, *L'esclusione dal comune*, 62.

<sup>(19)</sup> According to a tendency to the writing of norms and rights, which also contextually affected the *iura* of the commune, collected in the *libri iurium*, and common goods, registered and redistributed. Literature on the *podestà* system is extensive. Here, it is enough to refer to some general overviews (and the bibliography that these indicate): Milani, *I comuni italiani*, 62 ff.; Maire Viguer, Faini, *Il sistema politico dei comuni italiani*, 36 ff.; Artifoni, 'Tensioni sociali e istituzioni nel mondo comunale', 461-91.

<sup>(20)</sup> Artifoni, 'Repubblicanesimo comunale e democrazia moderna', 25-6.

<sup>(21)</sup> Koenig, *Il 'popolo' dell'Italia del Nord*, 145 ff.

<sup>(22)</sup> Tanzini, *A consiglio*, 83 ff. The forms of confrontation in the council followed a ceremony aimed at avoiding physical contact between the parties. Ibid., 98.

<sup>(23)</sup> With regard to this, see Artifoni, 'I governi di 'popolo' e le istituzioni comunali'.

<sup>(24)</sup> Grillo, 'Da diritto a privilegio'; Blanshei, *Politics and Justice*, 15.

<sup>(25)</sup> On the relational dimension of citizenship, see the perceptive description in *Fiscalità e cittadinanza*, 663 ff. See also the contributions in the collective work, *La fiducia secondo i linguaggi del potere*.

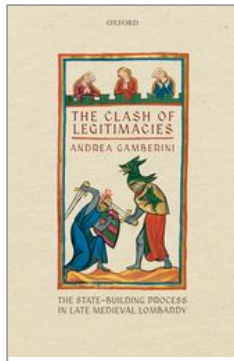
<sup>(26)</sup> Todeschini, *Visibilmente crudeli*.

<sup>(27)</sup> Poloni, 'Disciplinare la società'.

<sup>(28)</sup> Sides tend to be taken in the historiographic debate regarding the nature of the relationship between the commune and the Popolo. On the one hand, there are those (e.g. Maire Viguer) who see the Popolo as an expression of the commune; and, on the other (Zorzi, Milani, Poloni, for example), those who consider it one of the most active subjects within the city's political space, operating in open autonomy (and sometimes in competition) with other actors, such as the commune or parties. In general, on the issue of urban political space and the role of the commune, in addition to the reference in the following note, see also Maire Viguer, 'Introduzione' in *Signorie cittadine nell'Italia comunale*, 11, and, in the same work, Zorzi, 'La diffusione delle forme di governo personale

e signorile in Toscana', in particular 86-7. In Verona and Vicenza the picture appears to be further complicated by the birth, between the second and third decades of the thirteenth century, of another structure, called *communantia*, with its own *podestà* and statutes (at least in the case of Verona): not a creation of the *populares*, as a now dated historiographical interpretation would have it, but the expression of those *cives* who were intolerant towards factional struggle. Cf. Cracco, 'Da comune di famiglie a città satellite', 90-1; Varanini, 'La classe dirigente veronese nel Duecento', especially 196 ff.

(<sup>29</sup>) Milani's thesis is definitely a fascinating one: that the Popolo—even in the cities where they came to power—did not overthrow the commune, but chose to live with it, cultivating an otherness which revealed itself to be a fundamental identitary element: Milani, 'Contro il Comune dei milites', 251 ff.



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## Between *unitas* and *aequalitas*

### The Ideology of Representation

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### Abstract and Keywords

This chapter focuses on political life within the city commune. Although each political group tended to represent itself as ‘the whole’, division in the political body not only existed but was in fact a constituent part of communal experience, where a variety of different social groups and sectors confronted one another in increasingly regulated and disciplined forms. To see how the ideologies of unity came to terms with the theme of plurality means, therefore, investigating phenomena in the context of political culture, such as the organization of assemblies, the decision-making process, and the mediation of councils. In this respect the chapter casts light on the development of new civic values, such as *aequalitas*, and fresh legal principles, such as *quod omnes tangit ab omnibus comprobetur*—what affects everybody must be agreed upon by everybody—which succeeded not only in justifying collective decision-making but also in establishing the principle of representation.

**Keywords:** City commune, representation, assembly, party, faction

The tension between the unity of the political body and the plurality of its internal elements connotes the whole political experience of the *civitas*, well beyond the period of the *Popolo* referred to previously. On the one hand, *unitas* (unity) is constantly presented as a supreme value and there is no medieval political theory (whatever its matrix, whether philosophical, theological, or juridical) which does not assume the existence of a ‘teleologically determined’ totality, ‘within which each party, group or individual is realized by virtue of their

participation in the life of the whole'.<sup>1</sup> Such convictions, far from being confined to academic circles or scholastic environments, slipped into common sentiment. For example, Rolandino da Padova writes that the citizens knew that:

The peoples of each city lose strength in division, while they acquire and retain it when, providentially united, they attend together to the common good and advantageously put their faith in the supreme magistrate (*rettore*).<sup>2</sup>

On the other hand, however, this longing for unity coexisted with an internal division of the political body—also in need of legitimacy as an expression of the true dialectic of communal life—where groups with different interests (*milites/pedites*, the guilds, the *Popolo*, the *Partes*, etc.) confronted one another on institutional territory.

From this point of view, it is interesting to see, then, how the ideologies of unity faced up to the issue of plurality: exploring the implications of this operation means reinterpreting, in the context of political culture, the great theme of participation in community life, of council mediation, of representation.

The starting point for this exploration is certainly the transformations that redefined the life of assembly, the real cornerstone of communal experience, between the twelfth and thirteenth centuries. Political activity in the communes was first and foremost a collective activity, as the Venetian Paolino Minorita noted. At the beginning of the thirteenth century, he was the author of a treatise, *De regimine rectoris*, which sets out a singular but revealing thesis: that the cardinal virtues are called 'political' because 'politics in the vulgar tongue, [derives] almost from plurality, for which it ordains the multitude of men to live one with the other (p.48) in an orderly way'. According to the pseudo-etymology of the friar, therefore, the art of governing derives not from *polis* (city), but from *polys* (plurality) because, as Artifoni observes, that particular art 'is thought to be directed towards guaranteeing the coexistence of many'.<sup>3</sup>

If, at the beginning of the life of the commune, all family heads took part in the general assembly (called *concio*, *arengo*, or *parlamentum*),<sup>4</sup> the need to ensure that decision-making went ahead swiftly (hardly compatible with large plenary sessions), to endow it with a procedurally monitored process, and to avoid the concentration of normative activity in a single institutional location, soon led to the creation of a system of councils. From the thirteenth century on, this multiplied rapidly (general council, great council, little council or cabinet, council of the elderly, etc.) and in the Popular era became increasingly independent of the initiative of the *podestà*.<sup>5</sup>

A first reflection of these changes can be observed in the deliberative arrangements adopted by the assemblies. During the twelfth century, the decisions of the *concio* or *arengo* were always made unanimously and never



marked by signs of dissent that could undermine the image of the compactness of the political body. Even in the college of consuls, the possibility of majority decisions, while contemplated (at least in some circumstances and regarding certain subjects), was rarely exercised.<sup>6</sup> When unanimity was not, however, possible, the rift was played down through recourse to the use of expressions that allude to the willingness of the council towards concord: so in 1117, for example, through the work of the consuls of Bergamo a transfer of patrimony came about 'through the word and agreement of *almost* all the citizens'.<sup>7</sup> But many other cases of *almost* unanimity might be cited.

In Asti, however, things went even further, and the concern to maintain and represent unity regarded not only the *concio* or the college of consuls, but also the relationship between the two: it was Fissore who observed the frequency with which the documents that record the activities of the consuls are issued from the *commune colloquium*, the *publica concio*, the *parlamentum* (in short: from the assembly) according to an image of unity then further corroborated by the presence of formulas aimed at emphasizing the alignment of the consuls with the collective will ('by the will of the people, with the approval and confirmation of the people themselves').<sup>8</sup>

In contrast to this picture of compactness and concord, a very different picture of the councils emerges during the thirteenth century, as their proliferation in **(p.49)** some way bears witness to the new tendency to separate the decision-making nerve centres from the political body. With the concern for unanimity now cast aside, decisions were increasingly taken by majority (always in terms of a numerical, not a qualitative, criterion) and dissent, protected by voting that could also take the form of a secret ballot, was recorded in the council's deliberations.<sup>9</sup> And that was not all: in many cities, even some extra-communal structures, such as the *Popolo*, the factions, or the guilds, were now accredited with functions for political representation.

How, then, were all these transformations elaborated at the level of ideality? The development of the practices of assembly was often accompanied by the famous Roman law principle 'quod omnes similiter tangit ab omnibus comprobetur' ('what touches all must be approved by all'). Formulated in a Roman imperial law directed at the affirmation of unanimity in a rather narrow field of decision-making, with respect, for example, to co-tutors of minors or the incapable, this principle underwent re-elaboration by the canonists (and later by the civilians) in the twelfth and especially thirteenth centuries. As a result, its scope was greatly expanded, making it at times a legitimate element of collective deliberation in the secular and ecclesiastical *universitates*, at times the foundation of the representativeness of elective assemblies.<sup>10</sup>

In the communal sphere, passing nods to the aforementioned aphorisms appear, for example, in manuals for the use of city *podestà*, beginning with the earliest of these treatises, the *Oculus pastoralis* (1220), where ancient problems and new scenarios seem to coexist. On the one hand, the anonymous author still shows concern to offer a foundation for the legitimacy of assembly decisions: from this perspective, the reference to the use of monarchical regimes to provide the *princeps* with a council is little more than an expedient to oppose the practices followed by Italian communes, which ‘call many and elect them to the councils of their land’, following those rules according to which ‘what touches all must be approved by all’ (*‘quod omnes tangit ab omnibus comprobari debent’*).<sup>11</sup>

And it is precisely the parallel between the communal and the princely regimes that allows the author to introduce a new theme, that of representation, forcefully **(p.50)** imposed by the developments of the period, which saw the emergence of an articulated system of elective councils (big, small, general) and the simultaneous curtailing of the assembly of family heads. The idea was inspired by a consideration of the wisdom required of counsellors, easier to find amongst the old than amongst the young: it was no coincidence that the princes turned to the *seniores* for their advice.<sup>12</sup> Far from wholly welcoming this argument, however, the author of the *Oculus pastoralis* recalls that the Lord sometimes reveals the truth to the little and the humble and conceals it from the wise [Mt. 11, 21–5] For this reason, many cities have councils with a wide variety of members: to the point that ‘many, especially the young and the rich, boast to their neighbours of taking part in the private councils of their homeland’.<sup>13</sup>

The passage merits some consideration. What concerns the author of the *Oculus pastoralis* does not seem to be the normative pillars on which the delegation of authority from the people to the elective assemblies rests, and which the canonists and civilians resolved through the elaboration of the concepts of *persona ficta* and *repraesentatio*.<sup>14</sup> The subject of concern was, rather, the relationship of ‘social reproduction’ between the councils and the people who elected them. The argument put forward by the writer is unequivocal: since also young people have their own share of wisdom, it is advisable that the council should not only be made up of older figures, but be wide-ranging in its membership.

This particular aspect was also taken up and developed in *De regimine civitatum*, written in 1234 by Giovanni of Viterbo. ‘If the importance of the matter requires a larger assembly’, he states, then it is for the *rector civitatis* to be vigilant so that various wise men are elected from among the fellow citizens, including judges, jurists, consuls of merchants and priors of the guilds, on the basis of the principle that ‘what touches all must be approved by all [and] that what is useful to all is done with the agreement of all’.<sup>15</sup>

In this case, too, the legitimacy of representation lay in the representativeness and competence of the social and political composition of the council, which was **(p.51)** above all the *podestà*'s responsibility. And this was not, it should be noted, a matter of precepts destined to remain on paper. In this regard, there was a very interesting episode that occurred in Orvieto in 1232: faced with the insistence of the papal legate, determined to read the message of which he was the bearer in front of the whole *civitas* (which he evidently considered more open to suggestion than the council), the *podestà* replied that it was not necessary to call all the *cives* to parliament. He explained that since the General Council was composed of the Upper and Lower Councils, in which the leaders of the various quarters and guilds were present, it was representative of all the people, and thus everything that was approved by the council was considered to be approved on behalf of all the people.<sup>16</sup> As an expression of the main social sectors, the council interpreted the unity of the political body as equivalent to the assembly of the entire populace. This was true even when decisions were taken by a majority: as Odofredo had already commented, as long as two thirds of the councillors were present, this formed *unum corpus* (a sole body).<sup>17</sup>

*Unitas* therefore appears as a cultural *substratum* that was too deep to be wiped out by practices of assembly or the new forms of participation in political life mediated by the councils. But this in no way prevented the fact that it was possible to legitimize the fragmentation of the political body and the confrontation between its various parts. To return to the story of Orvieto: if the unity of *civitas* was reflected in the unity of the General Council this was only possible because the social and political diversity within the *arengo* was reproduced in the elective assembly. What the Orvieto case and the *podestà* records show is that, in the thirteenth century, the question was no longer, as it was at the origin of the commune, how to resolve the thorny issue of plurality in unity, of the many, in other words, who act as one—an aspect brilliantly solved by jurists through the elaboration of the political and juridical figure of the *universitas*.<sup>18</sup> It was, rather, to ensure a balanced participation of the many various sectors of the social body.

This was a concern which did not lessen even with the advent of stable Popular regimes, when a new idea of political participation, less dependent on natural factors (the *ius soli*, the *ius sanguinis*) and more closely linked to relational aspects (the economic and social credit enjoyed by the individual, his ability to interpret the ideals of the *Popolo*), restricted the activity of councillor to only one part of the *cives*. This was the most affluent and politically reliable section, for the members of which the jurists proposed the definition *decuriones*. This was an expression that referred back to the legitimate power of the tradition of the Roman *municipia*, where the nexus between financial trustworthiness and political participation had been explicitly established.<sup>19</sup>

**(p.52)** Nevertheless, despite the new political climate, the sources seem to suggest a certain discomfort on the part of the *populares* with regard to abandoning the obviously deep-rooted criterion of the representation of all the major sectors of society in the council, including those now affected by measures of exclusion. This is well illustrated by an event that took place in Florence, where, in 1285, Albizzo Corbinelli, rising to speak in the *Popolo's* Council, 'advises that these aforesaid things be brought not only in front of the *populares* and artisans, but also in front of the magnates of the city of Florence, together with the *populares* and artisans, because those things that touch all must be approved by all'.<sup>20</sup>

As the result of these concerns for the protection of the principle of representation, we see a new civic value emerging in the thirteenth-century sources—and then even more so in those of later ages—that in some way becomes the bulwark of pluralism and counterpart of unity: *aequalitas*.

Despite the scarcity of information regarding the functioning of councils in the early thirteenth century, the impression is that they closely observed the principle of balance in the election of councils and other communal offices. Thus, for example, at the beginning of the thirteenth century, in Milan, the councillors were the expression of all the main sections of society, with half coming from the city aristocracy (made up of two orders: *capitanei* and *vavassores*) and half from the Motta and the Credenza di Sant'Ambrogio (*societates* prevalently from the world of trades, artisanry, and professions). Moreover, still in Milan, the same criterion had already inspired a judgment in 1211 by Emperor Otto IV, who had decided to organize the Ambrosian public offices 'half to the *Popolo* and half to the nobles'.<sup>21</sup>

The criterion of balance could be interpreted in terms of class, as it was in Milan in the early thirteenth century, but it could also take different forms. For example, in terms of income: as in Fermo, where in 1252 each area expressed its representation in council by recruiting equally from the *maiores* (the wealthiest) and *minores* (the less well-off). And the same took place in other cities, where the *mediocres* also made an appearance).<sup>22</sup>

This did not exhaust all the possibilities. There is also early testimony to a reinterpretation of the principle of equilibrium that takes a more partial point of view, as in Vicenza. There—according to one chronicler's account—around 1215, the bishop lamented the fact that the *podestà* had modified the ancient custom of **(p.53)** distributing *aequaliter* the seats of the city council between the members of two *Partes*, those of the counts of San Bonifacio and those of the Ezzelini.<sup>23</sup>

In Ferrara, too, clashes between the pro-Este faction and the faction headed by Salinguerra Torelli ended in 1221 with an agreement according to which 'the

half-yearly or annual communal offices were divided in equal parts, so that the faction of Salinguerra had half of all the officials, while the other part was to belong to the citizens of the Marquis's faction'.<sup>24</sup>

And in the fourteenth and fifteenth centuries *aequalitas* continued to be the—openly evoked—principle that established the division of the council seats between factions in the cities of the Po Valley area—without which, the risk was *confusio* ('disorder').<sup>25</sup>

However, late-medieval documentation makes explicit an aspect that the far scarcer twelfth-century sources only hint at, and that is the ambiguity of the concept of *aequalitas*. In the 1380s, there was a fierce verbal confrontation involving the Parma factions, where the followers of the Pallavicini, the Correggio, and the Sanvitale appealed to the concept of *aequalitas* in order to continue the division of public posts between the four city factions. The Rossi followers, however, representing the largest faction in the city, rejected what was a formal, but certainly not substantive, balance.<sup>26</sup>

It should be noted, finally, that the criterion of *aequalitas* was such a pervasive one that it could be invoked to ensure balanced representation within the factions themselves. Still in Parma, and still with reference to the hotly contested elections of 1388, the lord of Milan sent a letter ordering that the list of aspiring *Anziani* (the Elders, that is the members of the Upper Council) provided by the Rossi group be changed, so that it might contain four *litterati* (learned people) and four *artifices* (guilds' members).<sup>27</sup>

In Bergamo, on the other hand, following the arrival of Venetian rule (1427), dissension within the Guelph faction forced the Serenissima to intervene 'so that parity (*aequalitas*) was observed in distributing the offices and ranks amongst them'.<sup>28</sup>

The structural tension between the unity of the political body and the plurality of the forces that composed it seemed, therefore, to contain a dialectic between two principles, *unitas* and *aequalitas*, which would continue to vitalize communal history well beyond the end of independence and self-government.<sup>29</sup>

#### Notes:

(<sup>1</sup>) Di Bello, 'Ordine e unità nel Medioevo', 3.

(<sup>2</sup>) 'Cuiuslibet civitatis populus in divisione vigorem amittere, quem nempe resumunt et retinent, cum in unum provide federati communem utilitatem attendunt et spectant salubrieter ad rectorem.' Rolandino, *Vita e morte di Ezzelino*, 520–1.

(<sup>3</sup>) Artifoni, 'Repubblicanesimo comunale e democrazia moderna', 6.

(<sup>4</sup>) But exceptions also exist, which indicate a different composition of the *arengo*. This is pointed out by Occhipinti, *L'Italia dei comuni*, 34.

(<sup>5</sup>) There is a lucid summary in Tanzini, *A consiglio*, and also some points in *Qui veut prendre la parole?*

(<sup>6</sup>) De Angelis, ' "Omnes simul aut quot plures habere potero" ', 170 and 183, where it is observed that 'The recourse to an effective arithmetic count of preferences ... was intended to represent a kind of *extrema ratio* in the deliberative mechanism, provided for in law, but rarely required in order to overcome dangers of stasis.'

(<sup>7</sup>) 'Per parabolam et consensum fere omnium civium'. Ibid., 185.

(<sup>8</sup>) 'Volente populo, populo ipso laudante et confirmante.' Fissore, 'Autonomia notarile e organizzazione cancelleresca', 71.

(<sup>9</sup>) Tanzini, *A Consiglio*, 104 ff. It is worth noting, though, that between the fourteenth and fifteenth centuries the preference for decisions made with as much agreement as possible once again became strong. The point is made by Della Misericordia, 'Decidere e agire in comunità nel XV secolo'.

(<sup>10</sup>) Cf. Congar, 'Quod omnes tangit, ab omnibus tractari et approbari debet', which captures the expediency of the brocard on a number of different levels (procedural, political, etc.). There are also comments in Post, *Studies in Medieval Legal Thought*, *passim*.

(<sup>11</sup>) *Oculus pastoralis*, 70. (§ *De Consilio et consiliariis*). A passage also recorded by Leicht, 'Un principio politico medievale', in particular 143. See also *Le consulte della repubblica fiorentina*, I, 175. The theme is dealt with in other parts of the text as well: cf. *Oculus pastoralis*, 32 (§ *De consiliariis preeligendis*). The author already makes a plea for the involvement of many in this passage: 'however, it is easier to find what is sought by many and truth is revealed more clearly through great men, as the sayings of civil wisdom state very openly' ('facilius tamen quod a pluribus queritur invenitur, et veritas per ampliores homines manifestissima revelatur, sicut dicta civilis sapientie apertissime protestantur'). In Tanzini's view, there is an allusion here to *quod omnes tangit*. Cf. Tanzini, *A consiglio*, 32. Franceschi, in contrast, picks up an allusion to Prov. XV, 22: 'Opinion is dispersed where there is no assembly, and strengthened where councillors are many' ('Dissipantur cogitationes ubi non est consilium, ubi sunt plures consilarii confirmantur'). *Oculus pastoralis*, 33 nn. 55-6.

(<sup>12</sup>) The argument in favour of older figures, wise thanks to their experience, is also reprised in Brunetto Latini, *Tresor*, 794 (Libro III, c. 75), which expressly refers back to Aristotle.

(<sup>13</sup>) ‘Plurimi, presertim iuvenes et divites, gloriantur interesse privatis Consiliis patrie suae, ut videantur preexcellere cum vicinis’, *Oculus pastoralis*, 70. Tanzini makes the acceptable decision, *A consiglio*, 32, on the strength of the context, to translate ‘privatum Consilium’ as ‘podestà’s Council’.

(<sup>14</sup>) Amply dealt with in Post, *Studies in Legal Political Thought*, 25 ff. On the elaboration of the juridical vicariate, summed up by the term *repraesentatio*, cf. Hofmann, *Rappresentanza-rappresentazione*, 133 ff. For Bartolo da Sassoferato, theorist of the *civitas sibi princeps*, the *concilium maius* (the major assembly) elected by the *parlamentum* (the general assembly) ‘repraesentat totum populum’ (‘represents all the people’). See Ullmann, *De Bartoli sententia*, in which the reader is also referred to make a comparison with the theories of Marsilio. Some comments, especially with reference to the consular age, in Gilli, ‘Aux sources de l’espace politique’.

(<sup>15</sup>) ‘Si magnitudo negotii requirat maius consilium.’ Iohannis Viterbiensis *Liber de regimine civitatum*, citation from 260 (§ CXIX—*De deliberatione potestatis cum consilio super dubiis*). ‘Quod omnes tangit ab omnibus comprobetur, [et] ut id consensu omnium fiat quod est omnibus profuturum.’ Ibid., 260. The exhortation to convene a council with a large membership, to which are added ‘other *valentuomini*’, judges and priors of the guilds, is also in Brunetto Latini, *Tresor*, 826 (Lib. III, c.87). This does not, however, justify such a membership with the brocard *quod omnes tangit*, but with a Biblical reference: ‘because it is written that in the multitude of counsellors there is safety’ (cf. Prov., 11.14: *salus autem ubi multa consilia*).

(<sup>16</sup>) The episode is noted by Tanzini, *A consiglio*, 34–5.

(<sup>17</sup>) Cf. Michaud-Quantin, *Universitas*, 274.

(<sup>18</sup>) On the *corpus-universitas* relationship, cf. Costa, *Civitas. Storia della cittadinanza in Europa*, I, 9 ff. Also Michaud-Quantin, *Universitas*.

(<sup>19</sup>) With regard to this, see Tanzini, ‘Signori e consigli’, in particular 390–1; Costa, *Iurisdictio*. As Massimo Vallerani observed, ‘the statutes set explicit limits to the assumption of political office according to predetermined levels of income, increasing from council duties to the directive positions of the *Popolo*, for which the high level of income required was to ensure access to the institutions only to selected persons and families within the city’s economic elite. At the same time, downward limits were also set, explicitly denying participation in some handicraft sectors to those who were poorly qualified or to whole categories of people designated as unworthy and dishonourable.’ Vallerani, ‘Diritti di cittadinanza nelle quaestiones giuridiche duecentesche (II)’.

(<sup>20</sup>) ‘Consulit quod predicta proponantur non solum coram popularibus et artificibus, sed etiam coram magnatibus civitatibus civitatis Florentiae, una cum popularibus et artificibus, cum quae tangunt omnes debent ab omnibus approbari.’ The passage is noted by Leicht, ‘Un principio politico medievale’, 17.

(<sup>21</sup>) ‘Medietatem populo et medietatem nobilibus’, Grillo, *Milano in età comunale*, 650.

(<sup>22</sup>) The Fermo example is noted by Tanzini, *A Consiglio*, 62. Around two centuries later, the same criterion was also used for a short period to assign council seats in Como. See Della Misericordia, ‘Como se tuta questa universitade parlasse’, 6.

(<sup>23</sup>) In Maurisi, *Cronica dominorum Ecelini et Alberici fratrum de Romano*, 19. Cited by Tanzini, *A consiglio*, 26. The episode took place between 1214 and 1218. On the emergence of the *Partes* in the city at the end of the twelfth century, cf. Milani, *L'esclusione dal comune*, 67 and ff.

(<sup>24</sup>) ‘Officia quoque communia semenstrua vel annua equa portione dividerentur, ut dimidiam partem officialium omnium haberet pars Salinguerre, altera portio in cives partis marchionum veniret.’ Riccobaldo da Ferrara, *Chronica parva Ferrariensis*, 161.

(<sup>25</sup>) As was said in Como in the fifteenth century: Della Misericordia, ‘Dividersi per governarsi’, 736–7.

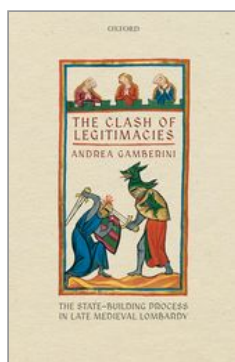
(<sup>26</sup>) The episode is reconstructed by Gentile, ‘La formazione del dominio dei Rossi’, in particular 37. But, for late thirteenth-century examples, see Tanzini, *A Consiglio*, 62 ff.

(<sup>27</sup>) Gamberini, ‘Il contado di fronte alla città’, 201.

(<sup>28</sup>) ‘Ut aequalitas in distribuendis officiis et dignitatibus inter eos servetur.’ The episode is noted by Cavalieri, ‘*Qui sunt gulefi et partiales nostri*’, 40.

(<sup>29</sup>) There are some remarks regarding its later success in: Gamberini, ‘*Aequalitas, fidelitas, amicitia*’, 172. More generally, with regard to intellectual, theological, and philosophical debate: Kaye, *A History of Balance*.





## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Ideologues of Communal Political Culture

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### Abstract and Keywords

This chapter focuses on the immense work of refoundation of political language and culture carried out by two groups in the communal age: the experts of the *Ars dictandi* and the jurists. The former, through the reworking of materials from the distant past (ancient republicanism, Cicero, then, from the end of the thirteenth century, also Aristotle), came to identify the essence of politics in the government of the community through justice, which alone could guarantee peace and collective profit. The latter, meanwhile, developed the instruments to affirm the primacy of the commune both within and outside the city. The effect was twofold: to legitimize the efforts of the commune, committed to promoting itself as a public power, and to lay the foundations for a relationship with the jurists that would become osmotic and pregnant with consequences.

**Keywords:** City commune, jurist, Roman law, power, republicanism

The legacy of the thirteenth century was a long-lasting one, deeply influencing the constitutional developments of the following centuries. This occurred both in terms of techniques of power—consider, for instance, as sufficient evidence, the ability of the commune to give rise to forms of government ‘that guided public matters without directly controlling all the sources of power present in the city and in other institutions’<sup>1</sup>—and in terms of political and juridical culture. The image of a community harmoniously inspired by *bonum commune* and built on institutions oriented towards this, even though ‘instrumentalized and instrumentalizable’, represented—as Giorgio Chittolini observes—a great new fact, and one that even lords and regional states had to take into consideration.<sup>2</sup> Similarly, a lasting legacy of this period was the juridical dimension of political

society: a new idea of legality, in other words, set free from the status of individuals, which made it possible for it to overcome what Dino Compagni called the whims of 'cursed judges' too frequently in thrall only to requests from the 'great'.<sup>3</sup>

If, then, as Andrea Zorzi has recently observed, it is necessary to be wary with regard to considering the events of the commune as the history of the progressive emergence of civic republicanism, of the triumph of collective interest over the individual, of concord over violence, it is however undeniable that this was an age attuned to the development and circulation of new ideals, of conceptual materials that refashioned the language and practices of politics.<sup>4</sup>

Two social and professional groups were engaged in the elaboration of thirteenth-century communal ideology. On the one hand, there were the experts of the *Ars dictandi*, who, from the very beginning of the century, were heavily **(p.55)** involved in a great effort of cultural re-elaboration (which included ancient republicanism, Cicero and, at one time, also Aristotle, etc.). The object was to forge a new political language, in the sense of 'the art of governing a community of individuals according to justice'.<sup>5</sup>

It should not be a matter of surprise that it was the *dictatores* who took on such a task—those who were expert in the precepts of epistolary writing. In the late Middle Ages, rhetoric (that is, the art of persuading through speech) had found its main application in the epistle (in this way equated with discourse), thanks especially to the popularity of this latter genre (letters) and the tendency to read out epistles with political content in public places: in front of the councils, to city officials, to the people gathered in the cathedral square, etc. In short, the *ars dictaminis* became one of the cornerstones of political reasoning, drawing widely both on civic eloquence<sup>6</sup> and the notarial class, especially those in the service of the communal institutions, of which they were the 'hands' and, in some cases, also the minds.<sup>7</sup>

The works of the *dictatores* (including Boncompagno da Signa, Guido Faba, Albertano da Brescia, and Brunetto Latini), as well as the special handbooks that in the early decades of the thirteenth century came to be used by the city leaders and were influenced by the *Ars dictaminis* (the anonymous *Oculus pastoralis*, the *De regimine et sapientia potestatis* by Orfino da Lodi, the *Liber de regimine civitatum* by Giovanni of Viterbo, etc.)<sup>8</sup> encompass certain civic virtues which, appropriately linked, develop the relationship between individual and collective interests in order to focus on one of the cornerstones of the ideology of popular regimes, the *bonum commune*. This, in its fullest representation (set down in the late thirteenth century by Remigio de' Girolami), was defined as 'a whole which is established as superior to the parts that compose it'.<sup>9</sup>

In this scale of values, at the top we find the city's 'greatness', its 'prosperity', and its 'growth': it is in these lofty attainments that the 'honour' and 'glory' of the commune reside. As regards the *podestà*—the guarantor that these goals will be achieved—the constant references in the doctrinal precepts to his honesty, his magnanimity, his disinclination to anger, and to every manifestation of vainglory, appear not to be a generic moral admonition, but rather a sign of distance taken from the ethos of the *milites*, the class that had been so predominant during the (p.56) consular period.<sup>10</sup> While the military capabilities of those who came from the ranks of knights were undoubtedly an important criterion in the choice of the *podestà*, they were never as significant as a mastery of eloquence and peroration, virtues innate in a civilized urbanity with the declared purpose of mediating political conflict through debate.<sup>11</sup>

The new communal virtues were implanted in the *cives* and their *rettori* not only by the pedagogy of the *dictatores* and *podestà*-oriented handbooks, but also by the spread of 'civic Christianity'. This was a new form of religiosity, inspired in its contents and manifestations by the communal institutions themselves, which were determined to make it an instrument of conditioning with regard to collective and individual customs. From the end of the twelfth century, religion was in some way taken over and developed by the communes, on the one hand sacralizing certain of the inspirational values of their political experience, and, on the other, attempting to give a suitably civic dimension to objectives and values that were instead endowed with a spiritual character. Between the thirteenth and fourteenth centuries, the process was complete: love of God became love for the community in which a person lived; charity was no longer directed only at a neighbour, but was love for the public person of the commune; holiness became a socially useful work, *cura civium* (citizens' care) a corollary for *cura animarum* (spiritual care), and so on. Even religious disvalues were not excluded from this process of appropriation pursued by the commune (and by the Popular regimes). The defamatory fresco in the Broletto of Brescia (the city hall) is a good example, where the expropriation of common goods from the community (behaviour that was widespread among the urban *milites*, but severely injurious to the community) is presented by the *populares* through the categories of avarice and cupidity, with complete identification between political crime and capital sin (the paintings portray chained *milites*—probably recently banished—with purses for money hanging from their necks: 'a coherent practice of representing the vice of avarice').<sup>12</sup>

The legitimizing force inherent in the relationship with the sacred in some cases made an even more ambitious projection of communal political discourse possible. This was the case in Bologna, for example, where the matter of the city institutions was placed as a proem to the Popular statutes of the mid-thirteenth century, and with even a providential aspect in the anti-imperial sense: an

answer, almost, to the ideological elaborations produced at the court of Frederick II.<sup>13</sup>

While the Bolognese case is in many respects a *unicum* (if anything, it would be the lordly regimes of the fourteenth century that would appropriate a providential (p.57) role for themselves),<sup>14</sup> common to all the cities of the time was the exaltation of the unity of the political body—another supreme virtue of *civitas*—through rituals of a religious kind. These included processions and special offerings that took place on specific occasions, beginning with that of the patron saint (and, from the end of the thirteenth century, *Corpus Domini*), in which the *podestà*, the other magistrates, and the guilds paraded together with the clergy and the entire population.<sup>15</sup>

There is, however, a point on which the sources of the period, beginning with the extensive literature of a dictaminal kind and the *podestà*-oriented manuals mentioned earlier, particularly insist: no result is possible for the city leader without ‘peace’—this alone can guarantee ‘serenity’ and ‘collective good’. And since there can be no concord and common good without justice, then the latter must be the main subject that the *rettore* should look to.

The premise for this elaboration can be traced back to that true ‘ideology of *iurisdictio*’—as Giuliano Milani defined it—which took shape during the twelfth century and which undoubtedly constituted, together with the themes of *libertas* and *bonum commune*, one of the cornerstones of the ideal development of the city communes. *Iurisdictio* is, in reality, a term that the jurists at the end of the eleventh century used to define what in modern terms would be called political power. In the sense of the power to protect the rights and prerogatives of others and to evaluate legitimacy in the event of conflict, medieval *iurisdictio* referred to something far more extensive than the current notion of jurisdiction, including, alongside judicial power, that of command as well.<sup>16</sup>

When the first glossators elaborated the concept of *iurisdictio*, they did not have the commune in mind (it was at that time just beginning): their points of reference were the emperor, the public officials, and those bishops who had been invested with sovereign prerogatives. Faced with the tendency of these actors to renounce (owing to lack of will or capacity) the exercise of *iurisdictio*, many jurists then theorized *necessitas*, hoping to foster the provision of judicial remedies in a society—that of the twelfth century—which was very much in need of it.<sup>17</sup>

It was only at this point that the city communes made their presence felt, determined—at least in the middle decades of the twelfth century—to legitimize their claims of territorial domination precisely through the ability to exercise public functions, such as assigning goods, passing judgment, and designating the right judge. The process was, in reality, a slow and gradual one. Since the

action of the commune introduced it into a highly complex political and juridical landscape, **(p.58)** characterized by the presence of other players, each of them with their own share of power and prerogatives, communal *iurisdictio* could not immediately present itself as a full and mature power. Instead—as Milani noted—it defined itself empirically over a period of time, through a process of erosion and expropriation of the rights and jurisdictions of others, both in the city and in the *contado*.<sup>18</sup>

A long process, then, in which the communes found a valuable ally in the jurists themselves, willing—if after some initial hesitation<sup>19</sup>—to support them in their goals. Taking over as their own the idea of *iurisdictio* developed by the glossators, the city communes established the premises for the development of an organic relationship with the world of legal experts (especially the legists) who were soon involved in the political project that was taking shape in the cities. If, in fact, the exercise of power meant that the commune could attribute rights and recognize the legitimacy of claims coming from the most diverse sectors of society, then the support of those who alone seemed to have the intellectual instruments to deal with particularly intricate litigation and dispute became inevitable.<sup>20</sup>

Within a century, a true osmosis was realized between the two worlds. Testimony to this on the one hand are aspects such as jurists with the same social provenance (most of them belonged to the city *militia*)<sup>21</sup> and the acceptance of the city statute as the object and instrument of their work (which, among other things, involved them in the immense work of conciliation between the *ius novum* (town statutes) and the *ius commune*).<sup>22</sup> On the other hand, there was the high degree of integration of *doctores* into the communal political system, not only as magistrates, but also as ideologues and consultants. This latter aspect, present since the twelfth century, increased during the thirteenth century to assume considerable proportions both in the judicial field, through the institute of the *consilium sapientis iudiciale* (which involved the non-native *podestà* requesting the opinion of a local legal expert before issuing judgment),<sup>23</sup> and in the political arena. Here, legal technicians were called to join those commissions (called *balie*) of a limited number of *sapientes* which, by the middle of the century, worked alongside with, and often replaced the activities of, the councils.<sup>24</sup>

One effect in particular of this osmosis merits attention for the purposes of the present research, and that is the adherence of the leaders of urban political society (not only of the commune, then, but also of the bishop, the ecclesiastical chapters, and the main city monasteries) to that reinterpretation of reality pursued by jurists on the basis of a language and categories derived from learned law. Far from being merely a rediscovery of an immanent order of reality—according to an ideological view still held by some legal historians—the intellectual work of the twelfth-century **(p.59)** legists offered to those who were

willing to adopt it the access key to a complete reformulation of political relations and ownership (*dominium*). And this was something that the main political actors in the urban sphere—the commune in the forefront—attempted to profit from.<sup>25</sup>

To understand how this could happen, it is once again necessary to take as a starting point the proliferation of disputes that arose over the course of the twelfth century. The multiplication of litigation in a rapidly expanding society marked by radical political transformations prompted jurists to develop a set of instruments to define more clearly the claims (but also the rights) of men over things, as well as the relationships between people (e.g. lord/dependant, serf/master, owner, proprietor/sharecropper, etc.). Through the use of long-past Roman law categories (action, contumacy, possession, etc.), a conceptual arsenal was swiftly created which could be drawn upon to stipulate legal transactions and above all to explain who was in the right to parties in cases of litigation.

It is worth noting that the procedural language forged in the twelfth century made it possible, thanks to modelization and general rules for the classification of real situations, to resolve issues of great complexity. The outcome, however, was not a restoration of the *status quo ante litem* (the situation that existed before the alleged unlawful conduct began), but a reconfiguration of the relationship between parties. Transforming conflict into judicial contention, creating abstract patterns to which real situations were connected—as happened in consular courts and then those of the *podestà*, on the basis of *ordines iudicarii* (procedural manuals)—were all operations beyond the neutral transposition of the language of praxis to that of trial, and this led to the production of an actual rewriting of the laws.<sup>26</sup>

The judicial procedures described in the *ordines iudicarii*—which matured within the ecclesiastical field, but quickly filtered into the Roman context to be adopted by city courts—obliged the parties to confront each other in a manner that was not the ‘irrational’ one of *placitum* (oaths, duels, ordeals, etc.). In order for a legal right to be recognized in a court, it was first necessary for the petition for justice to assume the form of the *actio* of Roman tradition. And it was precisely on this level that an elaborate procedural strategy, capable of taking advantage of the mechanisms of abstraction underlying the *actiones* (to which the real situations might be referred), opened up spaces that made it possible to engage with reality. ‘The transposition of a fact into legal terms had a greater number of possible definitions than that which was provided by the common language, because the rights infringed might be various and it was up to the accuser to choose which ones to defend during the court proceedings.’<sup>27</sup> The *actiones*, in short, carried out the crucial function of transforming a fact into a legally acceptable claim and it was then for the accuser, suitably advised by his

lawyers, to decide which of the many possible *actiones* best interpreted his claims and ambitions.<sup>28</sup>

**(p.60)** As is shown, for example, by the many disputes that so frequently arose with regard to *livelli* (long-term leases), also in view of the efforts made by churches and monasteries to recover the land for which the tenants had ceased to pay rent, the trials conducted with the new procedure rarely restricted themselves to restoring the ownership of property rights. They went even further, fixing a series of elements (the temporary and non-perpetual nature of the concession, the prerogatives of the owner compared to those of the tenant, clauses of protection against defaulting tenants, etc.), which in fact completely reconfigured this agrarian contract.<sup>29</sup>

The combined effect of the extremely intense circulation of Roman law and of the new procedures adopted by the city courts offered the social actors—at least the most enterprising and wealthy of them, who could afford a learned counsellor—the opportunity to try to reinterpret (and thus twist in a more advantageous direction) the relationships that existed with people and things.

In the following chapters, we will try to show how this rewriting of rights, far from being confined to the patrimonial arena, extended its potential into the political field in at least two crucial and connected ways. It made it possible for the commune, on the one hand, to increase its *iurisdictio*, and, on the other, to sit in judgment on the legitimacy of power. Laying claim to the monopoly of the highest degrees of *iurisdictio*, the commune also took upon itself the monopoly on legitimacy, setting itself up as the arbitrator of power relations in the territory, including those in which it was itself an interested party.

Before dwelling on this initiative, however, it is worth closing the extensive section dedicated to the city's political cultures by investigating whether, and to what extent, the experiences of personal government already established in cities from the early thirteenth century contributed to the development of an original political discourse.

### Notes:

(<sup>1</sup>) It was these very elements, according to Vallerani, that contained 'the true nature of "statehood" (indicating with this term the complexity and artificiality of the communal institutions)'. Cf. Vallerani, 'Comune e comuni. Una dialettica non risolta'. More generally, some useful comments in *Tecniche del potere nel tardo medioevo*.

(<sup>2</sup>) See the observations by Chittolini, "'Crisi" e "lunga durata"', in particular 153. The passage by Chittolini is also picked up and commented upon by Milani, 'Contro il comune dei milites', 258. Zorzi—not without foundation—insists on the

instrumental nature of the 'common good'. Cf. Zorzi, 'Bien Commun et conflits politiques'.

(<sup>3</sup>) Cf. Compagni, *Cronica*, 19. The passage is also noted by Franceschi and Taddei, *Le città italiane del medioevo*, 173. More generally, on the same themes, Sbriccoli, 'Legislation, Justice, and Political Power'.

(<sup>4</sup>) Zorzi, 'Fracta est civitas'. More generally on these themes, there is also the discussion involving several authors (Ascheri, Artifoni, Milani) in *Il governo delle città nell'Italia comunale*.

(<sup>5</sup>) Artifoni, 'Retorica e organizzazione'.

(<sup>6</sup>) Reference must above all be made to the research of Enrico Artifoni. In particular: 'I podestà professionali'; id., 'Sull'eloquenza politica nel Duecento italiano'; id., 'Retorica e organizzazione', 158. Also Witt, 'Medieval Ars dictaminis and the Beginnings of Humanism'; Skinner, *The Foundations of Modern Political Thought*, 84 and ff. More recently the collective work: *Cum verbis ut Italici solent ornatissimis*.

(<sup>7</sup>) Savelli, 'Le mani della repubblica'. On the relationship between notaries and dictaminal doctrine, see the famous case involving Bologna: Giansante, 'I notai bolognesi in età comunale'. More generally, also Bartoli Langeli, 'Notariato, documentazione e coscienza comunale'.

(<sup>8</sup>) Skinner, *Le origini de pensiero politico moderno*, 92 ff.

(<sup>9</sup>) See in particular: Zorzi, 'Bien Commun et conflits politiques'; and Boucheron, 'Politisation et dépolitisation d'un lieu commun'. Artifoni, 'Preistorie del bene comune'. Regarding the ambiguity of the lexeme *bonum commune*, also Mineo, 'Cose in comune e bene comune'.

(<sup>10</sup>) Maire Vigueur and Faini, *Il sistema politico dei comuni italiani*, 47.

(<sup>11</sup>) Artifoni, 'I podestà professionali'; id., 'Sull'eloquenza politica nel Duecento italiano'.

(<sup>12</sup>) On the defamatory paintings in Brescia see Milani, 'Before the Buongoverno', 319 ff. Citation from 324. Only pictorial fragments have survived and this is why illustrations have not been reproduced in the present volume. On 'civic Christianity' see Jones, *The Italian City-State*, 428-42; Chittolini, *L'Italia delle civitates*, 179 ff.; Mineo, 'Caritas e bene comune'.

(<sup>13</sup>) Giansante, *Retorica e politica nel Duecento*. The tendency of the Popolo to express their political programme through a language highly evocative of



Christian virtues is also mentioned by Raveggi, 'Le forme della propaganda', 476.

(<sup>14</sup>) For the case of the Visconti: Cengarle, *Les maestà*, 74.

(<sup>15</sup>) An exemplary case study is that of Parma: Gazzini, 'Luoghi e rituali civici a Parma'. On the fourteenth and fifteenth centuries, cf. Ventrone, 'Feste e rituali civici'.

(<sup>16</sup>) Vallejo, *Ruda equidad*, 35 ff.; Costa, *Iurisdictio*.

(<sup>17</sup>) If there was generally agreement between jurists (though not absolute) around the matter of the *necessitas* of *iurisdictio* on the part of its wielder, a more controversial issue was the question of the possession of *iurisdictio*, of which some said that it descended from an imperial privilege and others that it was tied to the exercise of an office (*munus*). It was not until the aftermath of the Peace of Constance that 'Italian cities wanted to appear as possessors of a magistrature, as subjects who could command political authority, rather than a privilege.' Milani, 'Diritto e potere nel secolo XII', 94 ff.

(<sup>18</sup>) Ibid., 99.

(<sup>19</sup>) Bellomo, *Società e istituzioni in Italia*, 373 ff.

(<sup>20</sup>) Milani, 'Diritto e potere nel secolo XII', 103.

(<sup>21</sup>) Maire Vigueur, *Cavalieri e cittadini*, 424–5. Id., 'Gli "iudices" nelle città comunali'.

(<sup>22</sup>) Chittolini, 'Statuti e autonomie urbane', in particular 15. Also Sbriccoli, *Contributo all'interpretazione dello statuto*.

(<sup>23</sup>) The literature is extremely extensive. Worth looking at: Rossi, *Consilium sapientis iudiciale*; *Legal Consulting*; Ascheri, 'I consilia dei giuristi'; Menzinger, 'Consilium sapientis: Lawmen and the Italian Popular Communes'.

(<sup>24</sup>) Menzinger, 'Pareri eccezionali'. But more generally, also Vallerani, 'Consilia iudicialia'.

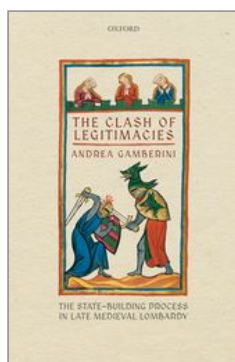
(<sup>25</sup>) Comments also in Conte, 'Roman Law vs Custom in a Changing Society'.

(<sup>26</sup>) Vallerani lucidly describes these dynamics. Cf. Vallerani, 'La riscrittura dei diritti'.

(<sup>27</sup>) Citation from ibid., 145. But on these aspects, also see Conte, *Diritto comune*, 36.

(<sup>28</sup>) The main reference point is Errera, *Arbor actionum*.

(<sup>29</sup>) Not only this, however: only though judicial paths did general principles begin to be established, which were then incorporated into the new contractual writings. Vallerani, 'La riscrittura dei diritti'.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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# The Experience of Personal Government between the Factions and the *Popolo*

## The Persistence of the Commune

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## Abstract and Keywords

At the beginning of the thirteenth century, two new actors made their appearance in the political life of the communes: the factions and the *Societas Populi*. This chapter focuses on the political language and culture of these two elements, highlighting the tendency of various social actors to consistently represent the unity of the political body. This was the supreme value which neither the factions nor the *Popolo* would renounce, even when they were alone in power: on the contrary, in fact, it was very much in that kind of situation that the parties tended to represent themselves as 'the whole'. The chapter then goes on to examine the role that both the factions and the *Societas Populi* played in fostering the first experiences of lordly government in the city.

**Keywords:** Faction, city commune, urban lord, Guelph, Ghibelline, populares

In a famous passage from his chronicle, Salimbene de Adam identifies in the years of Frederick II's wars in Lombardy the beginning of a political period marked by the establishment—and, after the emperor's death, by the extensive proliferation—of the lordly power of the *signoria*. An impressive list is provided by the chronicler:

Now it remains to speak of the rulers in Lombardy and Romagna: Marquis Monferrato in the Piedmont; Peter Becherio in Vercelli, Napoleone de Torre and his son, lord Cassone, in Milan; lord Lanzavelia in Alessandria; Uberto

de Iniquitate in Piacenza. In Parma for the Church party, lord Bernard of Roland Rossi ruled. He was brother in law of Pope Innocent IV (since he had married Innocent's sister), and he was a fine prince. For the imperial party in Parma, lord Bertolo Tavernerio was the leader. Later, however, the ruler in Parma for many years was Ghibertino da Gente, a Parmese citizen, and he was also the governor of Reggio. In Reggio, for the Church party, was Hugo de Roberti; for the Imperial party, lord Guido da Sesso and King Enzo, Frederick's son. In Modena, for the Church party there was lord Jacopino Rangone and Manfred da Sassuolo (or de Rosa), his nephew; for the Imperial party, lord Lanfranco and lord Ghirardino, both of the Pio family. In Cremona, Marquis Uberto Pellavicino and Buoso da Dovaria ruled for many years, and they exiled many men and destroyed many. The war was fierce, and they committed many evil deeds against other men, and, afterward, they themselves endured the same. Lord Pinamonte, a Mantuan citizen, ruled in Mantua, and his reign was long and harsh, lasting for many years. In Ferrara, lord Salinguerra ruled, and, after him, Marquis Azzo of Este, and succeeding Azzo was his son Obizzo, son of Rainald. For Rainald had died in prison as a hostage of the Emperor in Apulia, and his son Obizzo (born of a certain woman in Naples) was carried from Apulia as a small child, as I saw with my own eyes. This Obizzo was a man of great heart, but not a good one, for he did many evil deeds. He exiled the Fontana family from Ferrara, for example, the very ones who had raised him up to a position of power; and he ruled over Ferrara with unmitigated harshness for many years. The city of Ferrara was an adherent of the Church, as I heard from the mouth of Pope Innocent IV himself when he preached in Ferrara. And because the Marquis of Este were friends of the Church from ancient times, the Church supported them and allowed them to remain in Ferrara. In Treviso, Alberigo da Romano ruled for many years, and his reign was cruel and harsh, as those who experienced it know very well.

As Paolo Grillo has recently pointed out, this list is not free from errors and distortions, first of all for the chronological flattening out of experiences that spanned **(p.62)** a vast period of time, broadly speaking between the 1240s and the 1290s.<sup>1</sup> From a political viewpoint, it also placed faction leaders capable of deploying a certain influence in the city on the same level as real lords and even King Enzo, who, according to Salimbene, dominated Reggio. Apart from this caveat, however, the image offered by the chronicler is an vivid one, and it conveys the transformations taking place in the communes of Italy with extraordinary efficiency, as personal governments, even though characterized by different levels of formalization, were being established almost everywhere.

Thanks to a wide-ranging research project coordinated by J.-C. Maire Vigueur, the physiognomy of these regimes is now better known and has made it possible to mitigate—in many cases to actually erase—the appearance of otherness of the

thirteenth-century *signorie* with respect to the institutions and political tradition of the communal world.<sup>2</sup> In the reversibility of these *signorili* experiences, in the organic relationship and collaboration they maintained with councils, in the conservation of commune structures, within which the role and the activity of the *signore* were collocated, there are still visible signs of the resilience and flexibility of the communal institutions, rather than any manifestation of their incipient crisis.

This latter thesis is also confirmed by an analysis of the *modus operandi* of the legitimization of lordly power, in the thirteenth century still firmly encompassed within the boundaries defined by communal political culture and, more generally, that of the city.

From the very first manifestations of this power, there were two elements, often intertwined, that provided a basis for and legitimacy to the advent of personal government: the occupation of the role of *podestà* (either for alternate years or even for many years continuously) and connection with a local faction, of which the lord was leader or from the body of which he was in any case selected.

The occupation of the office of *podestà* was, for example, the stepping stone for one of the earliest examples of *signoria*, that of Salinguerra Torelli, who was *podestà* of Ferrara before becoming its lord from 1224 to 1240. The Estensi had regarded the position of supreme communal magistrate with similar ambitions, and through that very role between 1206 and 1213 tried to establish themselves as the government of Mantua and Verona.<sup>3</sup>

The exemplarity of these events does not, however, finish with the prefiguration of a solution—the assumption by the *dominus* of the office of *podestà*—that was destined to be extremely popular, even outside the Veronese March. There was also another fairly recurring feature in the experience of thirteenth-century *signorie*: adherence to the political culture of factions.<sup>4</sup> It was as the leader of one faction (**p.63**) that Salinguerra Torelli came to power, and he was forced out of power by the head of the opposing faction, Azzo VII d'Este.<sup>5</sup>

From this era, in the sources factional links were expressed in general through the lexicon of friendship (*amicitia*), with its intense, evocatory freight of solidarity and exchange of resources. As early as Cicero, friendship was considered to be the foundation of community. These are all aspects which we will come back to more extensively later on: for the moment, it is enough to note that while the members of a city faction are defined as 'friends', 'friends' also indicates those in other cities who militate on the same front and act as a coordinated group. The chronicler Riccobaldo da Ferrara, for example, recounts that, on the death of Azzo VII d'Este, 'friends' from nearby cities convened in Rome and proposed the election to lordship of the seventeen-year-old Obizzo, son of Azzo, and this occurred 'to the benefit of the party'.<sup>6</sup>

The precise meaning of this phrase merits some clarification. It apparently seems to direct the political discourse of the factions into a well-known category in the communal world, that of *utilitas*, now moulded to the partisan interests—of the *Partes*, in fact. This is a scenario that raises much more than one question regarding the compatibility between communal political culture and that of the factions. In fact, it is necessary only to abandon the narration of the chronicler (a discourse *on* faction) and analyse the act of the conferring of the *signoria* on Obizzo (a discourse *of* faction) to find the first answers. According to the document of appointment, the young Estense was elected ‘for the good of the city and for the praise and advantage of all the friends, so that it brings advantage to the city itself’, according to a formula that in unequivocal manner juxtaposes ‘convenience of the Party’ and ‘collective good’, in such a way as to suggest a full convergence between the two.<sup>7</sup>

It was but a short step from convergence to identification. It is a 1259 document from Cremona that reveals the holistic ambition of the *Partes*, which, once in government, did not hesitate to conceive of, and present, themselves as a united whole: ‘the Barbarasi faction, which is in the city of Cremona now and governs the city of Cremona itself and is now the commune’.<sup>8</sup>

A strong-principled petition, which also reveals the reasoning behind measures such as the political ban introduced to remove members of the beaten party: attacking the governing party was equivalent to attacking communal institutions, undermining the *bonum commune* that these upheld.<sup>9</sup>

**(p.64)** If, even up until the 1230s, factions seemed to coexist, though the balance was an unstable one, after the 1240s the logic of exclusion prevailed. This was justified, when not actually inspired, by those who were themselves the reference points for the *Partes*. The delegitimization of the adversary, culminating in the denial of their right to exist, can be traced back both to the polemicists of the papal party, intent on representing Frederick II and his followers as outlawed from Christianity, and to the imperial chancellery, resolved to accuse supporters of the pontiff in the cities of treason and heresy.<sup>10</sup>

In the light of these elements, too, it becomes possible to reconstruct the foundations of political discourse in a partisan environment, whatever the political colour of the party and the social groups that support it may be: the faction is the bearer of the general interest of the *civitas* and its actions are directed towards control of the commune, with which it strives to identify itself.<sup>11</sup>

The elements existing in connection with the formation of the *signoria* regimes in Ferrara—the embeddedness of the lord in the institutions and the political culture of the commune, starting with the factions—are also found in the establishment processes of many other city lords. Assisted by the emperor’s

wars and the resulting polarization of local alliances, split between followers of *Pars Imperii* and *Pars Ecclesiae*, the office of the *rector civitatis* was in fact losing its third-party nature to become the object of competition between the contending factions. They were ready to give the role to a local faction leader, or to an external figure, but in any case someone with a link to either the Church or the Empire. The phenomenon is particularly evident in the Veronese March, and the events involving Ezzelino da Romano, who became *podestà* of Verona (1226) thanks to the support of the Montecchi faction and, with the absence of Frederick II, de facto lord of the March, evolved in the manner described above. At a certain point, the emperor appointed him *rettore* of Vicenza, putting him on a similar level to that of his brother Alberico, who was *podestà*, lord and faction leader in Treviso.<sup>12</sup>

Similar features were also to be found in the rise of another great pro-imperial aristocrat, Oberto Pallavicino, who held the role of *podestà* in many cities in the Po Valley region, as well as assuming the explicit title of *dominus*. From 1254, he took to calling himself 'Vicar General of the Holy Empire in Lombardy, perpetual lord and *podestà* of the cities of Cremona, Piacenza and Pavia and of all that part of the Empire extending from one part of Lombardy to the other': 'Sacri Imperii in Lumbardia vicarius generalis, civitatum Cremone, Placentie et Papie et tocius Partis Imperii per Lumbardiam perpetuus dominus et potestas'.<sup>13</sup>

**(p.65)** The unusual aspect of Pallavicino's case was in his ability to be the interpreter of another political culture which at that time was gaining wide consensus: the culture of the *Popolo*. In fact, he did not merely restrict himself to seeking legitimacy in the office of *podestà* at some times and as the representative of imperial authority at others, nor did he base his consensus solely on his capacity to garner support from among the followers of *Pars Imperii*. Oberto was one of the first to realize the possibilities associated with the support of the *Popolo* themselves.<sup>14</sup>

There were in fact many lords who, attaining power through Popular movements, or linking up with them at a later moment, ruled in agreement with the *Societas Populi*.<sup>15</sup> It was a phenomenon that was already under way in the mid-thirteenth century, when the *populares* were generally still quite compact, and it gained further significance in the decades between the thirteenth and fourteenth centuries. At this latter time, instead, the process of development within the *Popolo*—involving the estrangement and progressive opening of divisions between small craftsmen and wealthy merchants—created additional room to manoeuvre for those who were able to place themselves at the head of its more dynamic and enterprising components.

The point to be made here is that, whatever the degree of formalization of these *Popolo*-based lordships (some of which were appointed through *arbitrium* on the part of the councils), they once again appear firmly founded in the urban world

and embedded in its traditions and system of values. In fact, there was little that was subversive in the forms of personal government that acted within the boundaries of communal institutions and that derived their legitimacy from the representation of the *Popolo*, expressly referred to in the titles assumed. Thus, in Milan, Pagano and Martino della Torre bore the title of 'elders of the *Popolo*', and in Cremona, Buoso da Dovara was 'the *podestà* of the merchants', and therefore 'perpetual *podestà* of the merchant guild', and so also in Piacenza, Oberto dell'Iniquità was 'rector of the *Popolo*'.<sup>16</sup> The scenario does not change significantly at the end of the century, when, as Riccardo Rao noted, the *signore*, while tending to assume new extraordinary magistrates, never ceased to invoke the name of the *Popolo*. Such is the case, for example, of Alberto Scotti, of Piacenza, who in 1290 became an 'elder, protector, defender of the commune, of the society of merchants, of the guilds and of the entire *Popolo*'. Similarly, Manfredi Beccaria, of Pavia, who in 1290 was the '*podestà* of the *Popolo*, of the merchants and of the college of notaries'. And there were plenty of other examples of the same kind.<sup>17</sup>

The lord, therefore, although of aristocratic origin, acted in harmony with the *populares*, contributing to the realization of their political agenda and sharing their guiding ideals, not least that of (frequently unsettled) peace.<sup>18</sup> The story of Giberto da Gente, of Parma, was in some ways emblematic: he accumulated the offices of (p.66) *podestà* of the commune, *podestà* of the *Popolo*, and the *podestà* of *Mercantia* (the federation of the city guilds) and established a personal government that was distinguished by its full commitment to agreement between the factions, both in Parma and also in the cities nearby.<sup>19</sup>

A shrewd politician, Giberto was able to capitalize on the consensus not only of the *populares*, but also of the members of the local Guelph party: he had been a member himself when he came to power and after years of maintaining balance between the local parties he would later return to its fold. This is an important aspect, because Giberto was certainly one of the first to build his own personal success on the alliance between the *Societas Populi* and a particular faction, a formula that would frequently recur from the middle of the century on.<sup>20</sup>

From a political point of view, the novelty is evident, at least as compared to the previous decades, when the *Popolo* had been the great antagonist of the factions (strictly aristocratic alliances and the bearers of violent customs). From the point of view of political culture, however, these lordly regimes seemed to draw on the argumentative repertoire of their supporters, the factions, and the *Popolo*, without contributing anything of great originality in terms of the elaboration of political discourse.

Thus, for example, the judgment issued by Buoso da Dovara in 1261 to pacify the two sides that faced off against one another within the nearby urban district of San. Donnino was inspired 'so that the good and peaceful state can be realized



of Cremona and of the community of Cittanova [the People, in other words] and of all the faction of the Barbarasi [that is, the Ghibellines]': an expression that links commune, *populares*, and faction to shared values, albeit certainly not new ones, of which the lord is interpreter.<sup>21</sup>

To find an experience that truly brought with it new developments in terms of practice and political culture, it would probably be necessary to look at the dominion that Charles of Anjou, Count of Provence and King of Sicily, built up from 1259 to 1260 in south-west Piedmont, Tuscany, and certain important Lombardy cities, such as Brescia and Piacenza. Some recent research suggests the complexity of the confrontation between the new lord, heir to a princely tradition and, from 1266, also dignified by the title of king, and his Cisalpine domains, where communal civilization coexisted with that of the territorial aristocracies and semi-urban hamlets. The latter were particularly predominant in the subalpine area where Charles's gaze first fell.<sup>22</sup>

The distance between the political cultures engaged in this conflict, springing as they did from very different backgrounds, was broad enough to prevent Anjou's personal government taking on the forms already observed in the northern Italian **(p.67)** *signorie*.<sup>23</sup> From this point of view, the king's invocation of motifs embedded in the Italian communal panorama, such as peace, which was frequently referred to in the pacts of submission from the community to Anjou and sometimes carried out by the *dominus* with the readmission of the excluded members. Another appropriation was made of one more typically communal element, the culture of the *Partes*, which led Angevin power to become 'the incarnation and, so to speak, the invention, of that Guelph alliance which seems capable of imposing a hegemony that is not only Italian but even European, bringing together Naples, the military power of the kingdom of France, the spiritual influence of the papacy, and the money of the Florentine bankers'.<sup>24</sup>

All this should not allow us to lose sight of the true innovation of this political period, to be found, even ahead of the new government practices (the introduction of the seneschal, vicariate, and other minor officials, the erosion of the fiscal and judicial autonomy of the communes, etc.) in the emergence of formal agreements between the *dominus* and the local community.<sup>25</sup> The encounter between the Angevin world and that of the (sometimes semi-urban) city took place on a new political terrain—one that was destined for extraordinary fortune in the fourteenth and fifteenth centuries: the terrain defined by the culture of pactism.

The varying negotiating ability of local participants made the *conventiones* between Anjou and the territorial bodies highly variable as regards content, with the same documentary forms fluctuating between devotion and alliance (albeit not between equals, as in the case of Piacenza, where Charles was endowed with special powers).<sup>26</sup> And yet it was the pact (and the political culture that

supported it) that now became the instrument for defining relations between the communes and the lords, who, for the first time, operated openly outside and above communal institutions.

Notes:

(<sup>1</sup>) Grillo, *Signori, signorie ed esperienze di potere personale*, in particular 22–3. The long citation is taken from *The Chronicle of Salimbene de Adam*, 365.

(<sup>2</sup>) Important collective works featured in the aforementioned Prin project: in addition to the oft-quoted *Signorie cittadine nell'Italia comunale*, also worth remembering are *Signorie cittadine e modelli monarchici*; *Signorie cittadine in Toscana*; *Tiranni e tirannide*.

(<sup>3</sup>) For which, see the observations by Varanini, 'Esperienze di governo personale', in particular 51–2.

(<sup>4</sup>) Aspects already noted by Salzer, *Ueber die Anfänge der Signorie*.

(<sup>5</sup>) For the record, the Estense held the title of *podestà* for no fewer than seven mandates between 1244 and 1258. Dean, entry 'Este Azzo di'.

(<sup>6</sup>) 'Pro utilitati Part [sic]'. Riccobaldo, *Chronica parva Ferrariensis*, 185. On the friendship/faction relationship, see in particular Gentile, 'Amicizia e fazione'.

(<sup>7</sup>) 'Ad bonum civitatis et ad laudem et comodum omnium amicorum, ut civitatem eidem salubriter sit provisum'. *Statuta Ferrariae anno MCCLXXXVII*, 5. On the significance of *comodum* cf. Mineo, 'Caritas e bene comune', 13.

(<sup>8</sup>) 'Pars Barbarasorum, que est in civitate Cremonae modo et regit ipsam civitatem Cremonae et nunc est Commune'. *Documenti per la storia delle relazioni fra Verona e Mantova*, 78. This does not alter the fact that 'the antithesis commune-pars was probably a commonplace by the second half of the 13th century'. Hyde, 'Contemporary Views on Faction', 282 ff.

(<sup>9</sup>) The birth of a political crime is reconstructed in detail by Milani, *L'esclusione dal comune*. Different penalties for the same crime were sometimes provided for members of the party in government and for those in the beaten party. This is what happened, for example, in Pistoia. Ravaggi, *L'Italia dei guelfi e dei ghibellini*, 106. In Bologna, the 1288 statute even came to prohibit marriage between members of the party in power and those of the excluded party. Ibid., 103–5.

(<sup>10</sup>) Grillo, *Milano guelfa*, 13; Milani, *L'esclusione dal comune*, 145 ff. Also Baietto, *Il papa e le città*, 456 ff.

(<sup>11</sup>) In relation to this, see Milani's observations, *L'esclusione dal comune*, 169–71.

(<sup>12</sup>) The reference here is to Bortolami, 'Ezzelino III da Romano'. He notes that 'Ezzelino maintained at least a façade of deference towards the communal institutions'.

(<sup>13</sup>) 'Sacri Imperii in Lumbardia vicarius generalis, civitatum Cremone, Placentie et Papie et tocius Partis Imperii per Lumbardiam perpetuus dominus et potestas.' Noted by Perani, 'I signori capifazione'. More in general, there is a profile of Pallavicino in Occhipinti, 'Uberto Pallavicini'.

(<sup>14</sup>) Milani, *L'esclusione dal comune*, 162.

(<sup>15</sup>) Already noted by Koenig, *Il 'Popolo' dell'Italia del Nord*, 293 ff.

(<sup>16</sup>) Rao, *Le signorie di Popolo*, 175.

(<sup>17</sup>) Ibid., 177. Also Rao, *Signori di Popolo*, 76 ff., 99 ff.

(<sup>18</sup>) Zorzi, ' "Fracta est civitas magna in tres partes" ', 68, where it is noted that the motives of peace 'far from constituting absolute and shared values, ... represented an ideological instrument which the various regimes drew on over time, re-elaborating them constantly.' More generally, also Dessì, 'Pratiche della parola di pace'.

(<sup>19</sup>) Greci, 'Origini, sviluppi e crisi del comune', in particular, 157-61.

(<sup>20</sup>) Koenig, *Il 'Popolo' nelle città del Nord*, 298 ff.

(<sup>21</sup>) 'Pro bono et pacifico statu civitatis Cremone, et comunitatis Cittanove [the Popolo, in other words] et tocius partis Barbarasorum.' The document is in *Codex Diplomaticus Cremonae*, I, 313, n. 744.

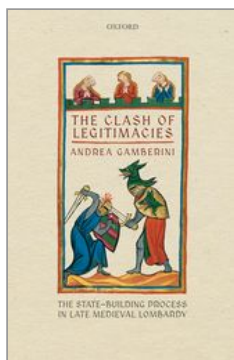
(<sup>22</sup>) Reference is to the collective work: *Gli Angiò nell'Italia Nord-occidentale*. On the image of Charles of Anjou as reflected by his contemporaries, on the language with which he was represented by friends and detractors, cf. Barbero, *Il mito angioino nella cultura italiana e provenzale*.

(<sup>23</sup>) Only in Tuscany did the cities offer the *signoria* to Charles in the forms, respecting communal rules, of the assumption of the title of *podestà* for a number of years with *mero et mixto imperio*. Taddei, 'La coordinazione politica di Carlo I d'Angiò sulle città toscane', 126-7.

(<sup>24</sup>) Barbero, 'Prolusione', citation from 10. More generally, see also Grillo, 'Un dominio multiforme. I comuni dell'Italia nord-occidentale soggetti a Carlo d'Angiò', 31-101.

(<sup>25</sup>) Rao, 'Gli Angiò e l'importazione di modelli principeschi'; Taddei, ' "Sicut bonus dominus" '; Grillo, *Un dominio multiforme*, 41 ff.

(<sup>26</sup>) On this aspect: Merati, 'Fra donazione e trattato', especially 336.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## Towards Conflict

### The Political and Juridical Culture of the Commune Becomes Hegemonic

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#### Abstract and Keywords

This chapter goes to the heart of the clash between the political culture of the communal citizen and the political cultures of the countryside. The process of reinterpretation of reality that the *doctores* pursued on the basis of learned law made it possible for the communes to reformulate political bonds in rural areas. The challenge that the commune threw down to the lordly powers of the countryside was then to reformulate their own traditional prerogatives of dominion through the new juridical language, in order to find a collocation within that general *ordo* (hierarchy) of authorities that placed the emperor at the summit and the communes immediately below him. For those powers that had their own roots in other cultural backgrounds, judicial scissors inexorably cut down the spaces available for claim-making, as is clearly shown by the trials that took place in urban courts against the lords of the countryside.

**Keywords:** City commune, judicial trial, Roman law, countryside, rural lordship, power, jurisdiction, authority

Having concluded the broad survey dedicated to urban political cultures, it is now possible to see how the city commune—through phenomena that have already been mentioned, such as the rewriting of rights and the exercise of *iurisdictio*—unleashed its offensive against the cultures that supported the opposing powers.

In the process of elaboration of the communal *iurisdictio*, a particularly important stage was represented by the clash with Barbarossa. His tendency to link public power to territory, and to identify the territorial administrators in the rural areas to which jurisdiction was by nature anchored, was in fact decisive in producing an emulative effect within the communes. Although the latter had followed their own autonomous route to identifying the limit of their expansion in the *episcopatus/comitatus*, the emperor's line represented an implicit encouragement to fill their territorial claims with openly jurisdictional content.

What is observed is that, well before the legitimacy obtained at Constance, the communes began to employ the term *iurisdictio* to describe the *contado* itself, in a revealing use not only of their complete adherence to a territorial paradigm of power but above all of the determination of the new communal institutions to place themselves at the summit of the hierarchy of powers present in the territory.<sup>1</sup>

In line with these developments, the sources produced by communes, from the end of the twelfth century, already represented the relationship between the city and the countryside in terms of the second belonging to the first, as is clearly indicated by the use of verbs and adjectives of possession. First, individual parts of the countryside—like the hamlets closest to the city, or some villages—were indicated as pertaining to the *civitas*. Then, the whole district became referred to as *comitatus civitatis* (in the vernacular: *contado*), following a locution that placed the city in a line of continuity with the Carolingian count (*comes*), ideally replacing the latter in the jurisdiction of the territory.<sup>2</sup>

As for the inhabitants of the countryside, the new urban-centric configuration was presented to them by the *cives* as the restoration of an original condition, which saw the *civitates* and their rural counterparts bound by a natural, albeit unequal, relationship. It was a thesis that urban sources conveyed through two **(p.69)** immensely effective images, already described many years ago by Giovanni De Vergottini: there was that of the family, which painted the city as 'mater' and the country dwellers as 'filii', and that of the anatomy, which represented the city as the 'head' and country people as the 'limbs' of a single body.<sup>3</sup>

The rhetorical expedients employed in these representations, which abound both in urban statutes and in epistolary exchanges, and which were still made use of in city claims in the fourteenth and fifteenth centuries, have been noted for their distortive force.<sup>4</sup> This starts with the use of metaphor, which is never neutral, but contributes to building the sense of the material that it organizes.<sup>5</sup>

Their serious underlying implications have also been remarked on: to violate obligations that are moral and natural, such as those of children towards their mother, does indeed constitute a true 'rebellion'.<sup>6</sup>

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However, there also exists a third aspect that deserves to be remembered here. The use of images that posit a link which is not only hierarchical, but also corporeal, between city and *contado* implicitly conveys the idea that all the actors involved are consubstantial. Whether it is a question of the existence of separate bodies, albeit linked by a relationship of filiation (e.g. *comitatini*, children, *civitas*, mother), or whether it is a question of the unity of the political body (e.g. limbs guided by the head), the matter of which those bodies are made, the blood that flows in their veins, is the same. The metaphor, in short, is a powerful one, and confers a deep sense of community on those involved.

Indeed, on the level of the political culture, city and countryside certainly had elements in common, sharing certain important categories of political thought. And yet the rhetoric utilized by the commune, with its strong emphasis on consubstantiality with the countryside, seems to want almost to extend this condision to cover the elements of otherness as well. Moreover, postulating a shared foundation in terms of rules, principles, and languages constituted the prerequisite for enclosing the society of the *contado* in a system that was institutionally coherent with, and hierarchically subordinate to, that of the city.

The era in which the commune's intervention in the countryside took place primarily on the basis of local custom was now in the past: when the thirteenth-century commune looked at the political practices of the *contado*, it filtered them according to its own conceptual and juridical framework. The effect was to project on to the territory a way of conceiving political relations that was often extraneous to it, which thus covered and concealed local society's real mechanisms of functioning.

The sources show with great clarity the linguistic matrix that the commune employed in its concrete relations with the territory. While city letters and statutes echoed immediately comprehensible organicistic metaphors (that were also **(p.70)** authoritatively Pauline in derivation),<sup>7</sup> the lexicon of urban claims and the argumentative logic underlying them drew on that system of *ius commune* that moved with decisive steps through city milieux (*studia*, law schools, courts of justice, notarial colleges), setting out to delimit the area within which jurists would continue to work for centuries.<sup>8</sup>

To understand how law—in its broadest sense and therefore understood as a judicial, doctrinal, and legislative activity<sup>9</sup>—did not restrict itself to describing the economic and social relations between city and countryside, but contributed to moulding them in deliberately asymmetrical forms, it is once again necessary to return to the relationship between the world of jurists and the world of the city, although without postulating the subjugation of the *doctores* to the new city institutions.<sup>10</sup>

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As recent research has once again underlined, the basis of the new juridical order was 'a dialectical culture, a rational comparison of hypotheses that must find a solution within a system of knowledge that is not a system of power'. The *sapientia* of the *doctores* was 'open, with probable and non-axiomatic solutions, which could always be improved by other masters: a cultural framework very far from a passive activity of reception of political will outside the class of jurists'.<sup>11</sup> Moreover, in the age of the commune, the relationship between jurists and political leaders was still one marked by a certain tension.<sup>12</sup>

For this reason, too, rather than insist on the submissive behaviour of the jurists (though this was far from lacking in some cases), it might be better to shift the focus to another aspect. This, as mentioned in previous pages, is the prompt acceptance by the commune—and the urban world in general—of the hermeneutic interpretations proposed by the *doctores*, of the structure of argument and wisdom that the latter were erecting. It was an acceptance that in fact laid the foundations for future convergence, prompting jurists, after some hesitation and uncertainty, to collocate their ideas increasingly within an urban context. Recognizing in the commune the apex of the jurisdictional system of the entire *contado* and in the statute the point of reference of *scientia iuris* (both in jurisprudence and in interpretation), the jurists ended up endorsing the role of the commune as an autonomous producer and regulator of law.<sup>13</sup>

Of course, it was not only the communes that benefited from the opportunities offered by the new juridical order and the activities of urban courts: the sources **(p.71)** testify widely to the initiative of other actors who, through the recovery of antique *leges* and the use of new procedural tools, were able to pursue their interests. Exemplary cases involved fugitive serfs who, through legal proceedings (and thanks to the *consilia* of some prominent jurists), were able to establish their status as free men.<sup>14</sup> An equally significant case is that of the castle lords who, only through the use of urban courts, were able to assert their own territorial jurisdiction.<sup>15</sup> On a different level, the re-reading of agrarian pacts can be considered—a thorny subject in the relationships between large landowners (generally ecclesiastical bodies) and tenants. In Genoa, for example, the bishop and large ecclesiastical groups were able, through legal proceedings, to substantially improve the conditions contained in the rental contracts that they usually made use of to rent out their own lands.<sup>16</sup>

While space and opportunity were thus opened up to many agents, the examples cited should not blind us to a crucial point: when the commune was involved as a party to the cause, the opposing party had little chance of success. The control that communal institutions managed to assert over normative production and justice, and the influence that the urban world—not only with its legal system but also with its highly original system of values—exercised over the advisory activity of jurists,<sup>17</sup> created a deadly trinominal, which left very little room for manoeuvre.<sup>18</sup> And this was true not only for those sectors of the society of the



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*contado* that still remained poorly integrated into the urban universe (also in terms of political and juridical culture), but also for those more inclined to deal with matters through playing by the new rules of the city. We shall now take a closer look at these particular aspects.

### 9.1 Law as a Legislative Instrument

The end of the war with Emperor Frederick I Barbarossa, and the consequent full recognition of the communes in the structures of the *Regnum*, also mark the beginning of an extraordinary flowering of city statutes, those normative compilations elaborated and implemented by the *cives*. True, some of these can be dated back to the second half of the twelfth century, but their real proliferation took place after the Peace of Constance, when the communes ceased to be *extra legem* in the eyes of the emperor, and when even academic jurists overcame the qualms that until then had prevented them from considering locally produced law as superior to that of the Romans.<sup>19</sup>

**(p.72)** The statute represented the highest expression of city legislation and constituted the foundation of urban law, but it did not take long before its application, initially limited to *civitas* and *suburbium*, was extended to the surrounding territory. Little by little, in fact, as the commune enlarged its sphere of influence and dominion, the statute also saw its field of reference broadened. The chronology shows variations from city to city, and would benefit from investigation in a comparative perspective. However, the tendency in general is fairly clear: to project the rules of the *civitas* firstly to the *districtus* (the area actually governed by the city commune), and then—at least at the level of claim—to the entire *contado*.<sup>20</sup>

The new development was broad and rich in consequence: over the course of several decades, the city statute was transformed from a simple urban law into a truly territorial one, preeminent with respect both to specific legislation (such as the statutes of rural communities) and to the *ius commune* itself (although—as Giorgio Chittolini reminds us—the more mature statutory versions were permeated by the principles of the *ius commune*).<sup>21</sup>

The premises for a turn of the screw on the many local powers had been put in place. It is no coincidence, however, that, of the aspects of rural society that the statutory norms were concerned with regulating, early attention was given to relationships of personal dependence. This was the true cornerstone of the political and economic power in the hands of the lay and ecclesiastical lords in the countryside. As, little by little, the city consolidated and expanded its rule over the surrounding area, the rules relating to serfdom and obedience to a lord also made their appearance in the statutes.

Relationships of personal dependence, it is worth pointing out, were not treated in the same way by different cities. Just as there was a variety of local political and social situations, differences also existed in the balances of power between

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these various centres and their respective *contadi*. It is well-known, for example, that in some Lombard cities, the communal ruling class included members of the territorial aristocracy, a factor that certainly did not lack impact on the speed and methods of the city's normative intervention in relation to personal ties.<sup>22</sup>

The chronology and tenor of the communal legislative interventions tended to vary, then, from case to case. Nonetheless, some general lines emerge very clearly and provide a sense of objectives that were broadly shared by the *civitates*, at least in the long term. In the oldest statutory versions, the issue of relationships of dependence is either not addressed at all or is addressed only in a very timid manner. In many cities, moreover, the families of the urban elite also possessed patrimonies, serfs, and sometimes even castles in the countryside. It is not surprising, therefore, **(p.73)** that at the end of the twelfth century (and beyond) the principle, active in the countryside, was still approved in the cities, according to which the long-standing permanent residence of the tenant on the master's land created a relationship of servile dependence.<sup>23</sup> In Milan, the *Liber consuetudinum* of 1216—in which older premises persist, at least from the middle of the previous century—says that if a lord does not require labour service for a period of one or two hundred years (in particular: 'reficere castrum', that is 'to repair the castle'), men cannot invoke this long interval of time to break the bond with the *dominus castri*.<sup>24</sup> But in Vercelli, too, the oldest sections of the city statutes openly acknowledged the lords' judicial authority over rural dependents.<sup>25</sup>

In general, at this stage, the city commune claimed high dominion only over the countryside, satisfied with leaving low dominion over local society to the rural lords. And moreover, the commune already exerted a strong influence over many of those *dominatus*, not only in the political, but also in the normative, field. One highly significant case is that of the *signoria* that the Veronese monastery of Santa Maria di Braida exercised over Palù di Trevenzuolo, where the abbey nominated the local *podestà*, but the latter had to swear to administer justice according to the 'laws, rules and good custom of the city of Verona'.<sup>26</sup>

Of course, the picture is quite a diversified one. In Treviso the statutes denied lords dominion over a specific territory, but protected the rights of the lord over his serfs.<sup>27</sup> This is a good example of an attitude shared by many urban communes of the thirteenth century. Through a genuine process of rewriting of rights, they distinguished, in relation to the seigneurial powers, between the prerogatives 'of manorial and landowning origins (safeguarded) and political, jurisdictional and, more generally, territorial, rights, which were disputed'.<sup>28</sup>

There was, of course, no lack of examples of more aggressive policies, both towards jurisdictions that were actually lordly and towards forms of personal dependence related to land ownership or ties of vassalage. The commune of

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Parma, for example, while acknowledging the ties of dependence contracted until then by the *manentes*, in 1234 forbade the establishment of new ties.<sup>29</sup>

More and more frequently however, norms began to appear in the statutes that, while favouring immigration from the countryside, provided for the emancipation of newcomers into the city from the jurisdiction of the lord of the ban, while the dependence that arose from bonds of serfdom remained approved. The mirror of legislation, therefore, reflects an important distinction between the dependents in the countryside: while the free (or allegedly free) who abandoned the territory of the lord were exempted from any previous obligation by the city commune and **(p.74)** accepted as *cives* (in some cities from their moment of urban settlement, in others only after a number of years), those for whom a *dominus* could demonstrate servitude (through voluntarily signed contracts or testimonials) enjoyed no benefit at all and were indeed returned to the lord.<sup>30</sup> We will come back to this distinction, which the filter of the law perhaps makes clearer and more emphatic than it actually was. For now, we may note that the statutory regulations, though with local variants, seem to remain within the parameters mentioned above, until the central decades of the thirteenth century. From this era on, many tended to take the matter further, to the point of 'affirming the full personal liberty of all dependents of the *contado*', irrespective of their original status.<sup>31</sup> Bologna is certainly one of the best-studied cases: here, from 1256–7, a series of norms issued by the urban commune led to progressive emancipation from all the constraints of personal dependence and fidelity. The objective in that case was not only to weaken the lordly powers in the *contado* (to a large extent already under control), but also to broaden the base of urban taxation to include those figures, the serfs, who by virtue of their non-free condition were exempt.<sup>32</sup>

But during the course of the mid- and late thirteenth century, often in concomitance with the establishment of the regimes of the *Popolo*, feudal relations—another channel of supply of lordly followers—also came under attack.<sup>33</sup> And this went on for a long period of time, a clear sign of their popularity and spread, especially in certain areas. It is no coincidence that, in 1404, in Reggio Emilia, the statutes promoted by the new lord, Ottobono Terzi, rendered anti-feudal legislation more restrictive, even though it had already been present in fourteenth-century statutes.<sup>34</sup>

The normative production of communes was not limited to placing controls on these aspects. After having undermined the foundations of the power of the *milites* (by limiting or abolishing their jurisdictions and severing the personal ties that underlay the loyalty of their military followers), the city-states also sought to oppose the *militia* and its many urban emulators on a cultural level. The growth of *Popolo* movements in cities, which were already frequently managing to take control of communal institutions in the 1230s, only to return to more continuous and stable forms after 1250, led to a radicalization of the

conflict with the class of knights. At stake was not just participation in offices and councils, but the inspirational political culture of the action of the commune, which the *populares* wanted to see increasingly influenced by the values of concord and peace. The conflict, in other words, was a blow to the very cornerstone of political coexistence: on the one hand, those who based the exercise of power on individual status, on belonging to an illustrious household, on the exclusivity of their governmental vocation; and **(p.75)** on the other hand, those who increasingly envisaged power as an organization of collective interests (therefore as a capacity for government), with its spaces (the institutions), with its constraints (laws), and with its participatory and deliberative mechanisms.<sup>35</sup>

In this atmosphere of intense opposition, the initiative of the *populares* also took the form of norms that severely affected the *grandi* or *magnates*: terms that were starting to be used not only to denote the *milites* in the strict sense but also those who—generally coming from the highest and most financially solid levels of the merchant class and the guilds—imitated their customs and traditions, beginning with the ostentation of power and aggression.<sup>36</sup> It was a multifaceted legislation that included measures that limited the political rights of the *magnati* (excluding them from the city magistrature) and weakened their judicial protection (at least in comparison with the *populares*).

Here, we are concerned mainly with highlighting the aspects of criminalization of the ethos of the *grandi*, not by chance represented by the *Popolo*'s regimes as 'rapacious wolves', whom the 'lambs' must drive out before becoming their prey.<sup>37</sup>

Statutes and measures were therefore implacably deployed against a way of life based on violence, together with its symbols and its manifestations. In various cities it was now forbidden to build towers, while existing ones were either destroyed or reduced in size. It was often prohibited to carry weapons of war (lances, for example) in public places, or for the *grandi* and *popolari* to come together in parades or assemblies.

Vassals—both status symbol and power base for lords—were severely affected by anti-feudal rules. As for the practice of *vendetta*, though acknowledged and accepted by city statutes, it was now more rigidly regulated so as to limit the range of those who could exercise the right to avenge themselves and thus to prevent the flaring up of new conflicts.<sup>38</sup>

In some centres—no more than eight to ten altogether—anti-magnate laws culminated in the drafting of lists of magnates who were to be stripped of their rights and privileges as citizens and expelled from the city following a ban. Historians have emphasized the instrumental use of these exclusionary measures, often used by elites to settle scores, even within the same group of

*populares*. And yet, apart from these aspects, it seems beyond doubt that the original purpose of those norms and bans was not merely to circumscribe a governing class, but to combat the *magnati* and, above all, their political culture. The prohibitions against the families of the *grandi* aimed not to exile them from the city for ever, but rather to induce them to negotiate the conditions for their readmission with the *Popolo*-run commune, **(p.76)** which could happen if they continued to be subject as *cives* to the commune. As Andrea Zorzi pointed out in his research, ‘the commutation and mitigation of the judicial verdicts in relation to the magnates was often the prelude to their readmission to the *Popolo*’.<sup>39</sup>

As for the *Popolo* themselves, being able to link exclusion from their rule with exclusion from the city did not only represent a way to become stronger. It was also a way of merging with the commune, from which they acquired legitimacy but to which they transferred their own values and their own political culture, institutionalizing them in the process.<sup>40</sup>

The regulatory controls placed on the military aristocracies, which we have focused on so far, went hand in hand with another crucial phenomenon, one extensively studied by historians, and that is the profound reorganization of the territory controlled by the commune. Not only the statutes, but also the *riformagioni* (enactments of the legislative councils)—that is, the whole multifaceted panorama of communal legislative production—account for the multiplication of interventions that took place to adapt the *contado* to the fiscal and institutional needs of the city. Local communes were made jointly and severally liable with respect to tax payments; intermediary administrative districts were established between the level of the *contado* as a whole and the villages; the inclusion of this or that castle in the city *districtus* was expressly declared; and so forth. Once again, the character of this phenomenon varies from city to city, but between the twelfth and thirteenth centuries the tendency was undoubtedly a widespread one.<sup>41</sup>

During the fourteenth century, the effort of ‘territorial control’ carried out by the cities of the Po Valley—from Parma to Lodi, from Novara to Piacenza, to Reggio—even led to the codification of norms that forced each and every settlement within the *contado*, in particular every single hamlet and every single *castrum*, to constitute itself as a commune. Far from the eras in which the rural commune had an autonomous origin, linked to the initiative and interests of local groups, in many areas of the Po Valley it had become the chief means through which the urban centres had shaped the surrounding area, creating a collective system—one that was collectively recognized and responsible towards the *civitas*.<sup>42</sup>

## 9.2 Law as a Doctrinal Instrument

It was not just members of communal councils or commissions charged with reforming the statutes who were discussing relationships of personal dependence **(p.77)** or ownership relationships, but also academic jurists whose

*summae*, *glossae*, and *distinctiones* provided a constant source of arguments for the practitioners of the law (lawyers, magistrates). Called upon more and more often to unravel the tangled knots of real situations with their methods, academic jurists ended up propagating knowledge that, far from being the neutral rereading (or rewriting) of facts and relationships, instead unfolded itself along a rather recognizable line—one that was tendentially in convergence with the interests of the commune and the *cives*.

Some examples from the many available will clarify this point. The first concerns the decisive topic—crucial, at least, for an urban society such as that of the twelfth and thirteenth centuries, with its patrimonial extension over the *contado*—of relationships of possession. ‘Manifesting a certain degree of dissatisfaction with the current regime of “real situations”, static and extraneous to the needs of the merchant class to have real estate capital available’,<sup>43</sup> the thirteenth-century statutes in many cities intervened against the customary constraints that restricted the right of enjoyment on the part of the emphyteutic, leaseholding, or precarious tenants. The statutes, in other words, seemed to give voice to the interests of those who held leased-out property (generally from large ecclesiastical owners), but could not make use of it freely (for example, through alienation), and those who wanted to invest in land but could not acquire the rights to do so from the landowners.

One exemplary case is that of Mantua, studied by Torelli, where the regulation favoured the tenant to such an extent as to allow him to redeem the right belonging to the landowner within a range of 3 miles around the city (making it possible, in other words, for the tenant to recompile the complete rights to agricultural land).<sup>44</sup> But a similar line was followed in other cities, such as Modena, where at the end of the twelfth century a norm had already been promulgated by the commune to allow vassals to alienate land-use rights. Certainly, the legal foundations of the measure might appear unsound and contrary to custom and this explains why a celebrated academic jurist intervened on the side of the commune with his own ideas on the matter. ‘Richly rewarded by the city of Modena’, with whose institutions he had a very close relationship, Pillio da Medicina had precisely at that moment launched his commentary in *Libri feudorum*. Here, he introduced the concept of *dominium utile* (the right of the vassal/tenant to make use of an asset), which would prove extraordinarily successful. This was, of course, a principle of general validity, but it is a fact—as Emanuele Conte noted—that, in the months following, these doctrinal developments were written into the aforementioned legislative measure of the Modena commune, endowing it with a far greater level of authority.<sup>45</sup>

**(p.78)** Many more examples could be given of interventions by the jurists that appear consonant with urban expectations. However, if there is an area in which jurists seem to distinguish themselves in their unceasing commitment in support

of communal legislation, then it is in the delicate matter of relationships of personal dependence. From the early thirteenth century, jurists were constantly consulted on questions regarding the status of those peasants who abandoned the land of their masters to move to the city, where they were proclaimed free men.<sup>46</sup> The *doctores* in general—including Rolando, Azzone, Ugolino, and Jacopo Balduini—appeared more favourably inclined towards the countrymen than towards their masters. Invoking the Roman principle that the condition of subordination depended not on remaining for a long time on the lordly land, but on explicit and declared will, the jurists placed very strict limitations on the masters. In the absence of explicit testimony regarding the voluntary nature of the subordination to the *dominus*, the status of servitude appeared to the *doctores* to be a mere relationship of force, with no juridical foundation.<sup>47</sup> Was this, then, a position in opposition to the interests of the *cives*? On the contrary: it has been observed that this orientation was in line with those, increasingly numerous, sectors of urban society which were in favour of the release of the serfs.<sup>48</sup>

Yet the deep and organic nature of the relationship between local jurists and city emerged even more clearly in subsequent doctrinal developments. These were designed not to sclerotize the structure of that relationship, but rather to support the greater flexibility requested by the *cives* in matters of serfdom, while guaranteeing the last word on the subject to the communal courts.<sup>49</sup> Ideas on the subject of the constraints of dependency were aimed not at weakening the network of ties that extended throughout the countryside (a decision that was left to the political organs of the commune and regarding which the *cives* appeared to be developing new directions), but to reformulate those ties according to patterns that were acceptable to the courts of urban justice. The local jurists, in other words, 'place their weapons of logic at the service of the urban ideal which wants to replace the static system of personal dependency based on custom with the dynamic network of compulsory relationships. And thus they make a fearsome instrument available to the city in the battle against the *potentes* of the countryside'.<sup>50</sup>

The case of the jurist Martino da Fano (c.1190–1272) exemplifies this attitude well. An interesting figure in the field of legal procedure and doctrine, Martino was also a professional administrator, holding the office of *podestà* in certain important northern Italian cities, including Genoa. He was a notable figure in the decades that for the Italian communes marked the consolidation of dominion over the *contado*. And it was the complex world of the countryside that ended up catching (p.79) his attention. He was particularly interested in the dense network of relationships of personal dependency that in many regions of central-northern Italy enveloped rural society, constituting one of the foundations of lordly power. It was in general a matter of ties based on apparently habitual customs, the origins of which were not however always clear to an external observer. And so Martino decided to devote a treaty to precisely those

relationships, so uncertain in nature, but not those of vassalage, which were in fact much more recognizable. This was his tract on serfs, *De hominiciis*, probably composed during his stay in Modena. From the reading of the first *quaestiones* it is clear that the jurist was not the least interested in uncovering the origins of relationships of personal dependency or understanding their internal logic. His purpose was to harmonize those relationships with the juridical system in force in the city, thus creating the conditions for disciplinary action by city courts. Wholly in line with the expansionist ambitions of the city communes, Martino was therefore attempting to reread the links of personal dependency in the light of Roman law. The task was not an easy one. Roman law, though rich with institutions and figures, did not contemplate anything that really resembled the *manentes* of the late medieval countryside: certainly not the tenant farmers of late antiquity, who were free individuals, however bound they were to the land they worked; nor the serfs, who, according to the *Corpus iuris civilis*, derived their status from a voluntary act of subordination which in exchange bestowed on them the protection and defence of the *dominus*. The thorny question of how to legally configure the status of rural dependants, subject to obligations that were hardly attributable to a voluntary act, was resolved by Martino by assuming the existence of an agreement between the parties. He did not deny that those ties were based on custom, recognizing the power of *praescriptio*, but—and here is Martino's stroke of genius—it was from the latter that it was possible to infer the existence of an original founding agreement (*pactum*) between the countryman and the lord. The act of personal submission is thus wholly linked back to the theoretical repository of Roman tradition, a solution that could open the doors of the courts of urban justice to rural dwellers in conflict with the *domini* while also creating the premises for an autonomous judicial initiative on the part of the city communes.<sup>51</sup>

### 9.3 Law as a Judicial Instrument

The 'sweet violence of the law'—as A. M. Espanha defined it<sup>52</sup>—did not take place solely at a legislative and doctrinal level, but also at a judicial one, this being the sphere of the real instrument with which the communes succeeded in dismantling the opposing political and legal cultures.

**(p.80)** In the preceding pages, a great deal has been said about the rewriting of rights made possible by the new procedures adopted by the urban courts and on the opportunities this opened up to so many of the social and political actors of the time. In the following paragraphs, we will try to show how the first beneficiary of these new developments was in fact the city commune, which, for the first time, succeeded in establishing its jurisdictional primacy, thus reconfiguring power relations in the world of the countryside.

The identity of the source of the new conceptual weaponry utilized in city courts in the middle of the twelfth century is a question that the most recent historiography has now solved, identifying the profound debt towards the



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Church and its institutional transformations. Not only the procedure based on *actiones*, but also the very idea of an abstract *ordo* (hierarchy) of powers was borrowed from ecclesiastical environments, especially those of the Roman Curia, where the papacy continued to shape the vertical structure of the Church.<sup>53</sup>

Without dwelling on the elements that made it possible for communal justice to raise itself so quickly to a hegemonic, and no longer voluntaristic, dimension (in spite of the fact that there remained formulas in the late twelfth-century sources that emphasized the consensus of the parties, their spontaneous recourse to the urban curia),<sup>54</sup> the point I would like to focus on here is precisely that asymmetry that was produced between those who were judged and the authority that passed judgment. The process, in contrast to arbitration, implied both the involvement of a judicial authority external to the litigants and, on the part of the latter, 'the recognition of a superior jurisdiction which finds in the acceptance of the procedure a first elementary form of manifestation'.<sup>55</sup> And the consular courts did not delay making use of the new procedural tools to affirm unequivocally the primacy of the commune. The same practice of judicial ban was aimed at punishing with exclusion from the commune those who, through their own actions, denied de facto the *iurisdictio*.<sup>56</sup>

If in the first half of the twelfth century the bishop's court still constituted the most authoritative city tribunal, from at least the middle decades of the century the circulation of legal experts between the episcopal curia and that of the consuls helped introduce the procedural forms of the *ordo iudici* into the latter as well. With their triadic model (a judge subject to the legitimate holder of power and superior to the parties involved), these seemed highly functional in furthering the hegemonic ambitions of the commune.<sup>57</sup>

It took several decades for this system to truly exploit its full potential: just long enough for the communes to obtain complete legitimacy from the empire and for the jurists to link communal prerogatives to the even more important ones of the emperor. The process of elaborating abstract categories turned out once again to be a central factor. This did not only include recourse to the *actiones*, but, as **(p.81)** previously mentioned, also presupposed the existence of a general *ordo* of rights in which, duly hierarchized, real situations had to be inserted. In the secular sphere, the fundamental steps towards the creation of a true *ordo* were first the claims of Barbarossa at Roncaglia ('every jurisdiction is in the hands of the prince and all judges must receive the administration from the prince and swear an oath as is established by law'),<sup>58</sup> then the sovereign's subsequent concessions (in favour of single individuals, individual communes, or entire groups of communes, as at Constance, when both the communes of the League and those allied with the sovereign benefited from imperial privileges).

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In this way, a hierarchy of *iurisdictio* was defined that saw the emperor at the very top and, immediately below, the communes (together with those lay and ecclesiastical lords who were also bestowed with imperial concessions). The legitimation of the remaining powers took place only through the ability of the latter to insert themselves into the new *ordo*. For those who were unable to reformulate their own traditional prerogatives through the new juridical language or who refused to be collocated within the *ordo* in a hierarchically subordinate position to the commune, the outcome was the inexorable censure of the urban courts.

From 1204 there was a dispute—analysed by Milani, Vallerani, and Moggia, amongst others—between the Avvocati family and the commune of Genoa concerning jurisdiction over certain places and people. Following a murder, the Genoese consuls summoned the perpetrators to court, but there appeared instead a relative of the Avvocati family, who declared that the city commune held no jurisdictional authority over the place where the crime had been committed. At that point, the *podestà* examined the *positiones* of both parties and finally sentenced in favour of the commune. And it mattered little that the Avvocati at a certain point seemed to be content with the *iurisdictio* only for the crimes committed among their own men, according to a method that had probably remained unquestioned until the recent past. The commune, strengthened through a concession from Barbarossa himself, now claimed *iurisdictio* over the entire *contado*.<sup>59</sup> The era in which Genoan communal institutions had agreed to share the *districtus* with local lords was now firmly in the past and the *podestà* was able to openly uphold the indefeasibility of the *iurisdictio* and *merum imperium*, granted to the commune by the emperor.<sup>60</sup>

The acceptance of the new ideas of *ordo* and *iurisdictio* also spread rapidly to other cities, even though they did not replace overnight older concepts of legitimacy of power. This was the case in Milan, where the *Liber consuetudinum* of 1216 still (p.82) also included, alongside the *iurisdictio legitima* granted by the emperor, the *iurisdictio* acquired *extra ordinem*—in other words, through a juridical deed guaranteed by custom, e.g. *per emptionem* (through purchase).<sup>61</sup>

Beyond these chronological oscillations, the point worth highlighting is above all the consequences of adherence to a vertical and hierarchical conception of power. If invoking the *ordo* gave foundation to the jurisdictional primacy of the commune, the exercise of communal *iurisdictio* reinforced the *ordo* as a parameter of the legitimacy of power. It was a sort of self-nourishing circle which in just a short time became a formidable hegemonic instrument for the commune.

It is no surprise, therefore, that the attack on the lordly powers of the countryside was carried on through judicial channels as well, a process that made it possible to establish, at the same time, the authority of the commune

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and the hegemony of its political and juridical culture, the only one to be recognized by urban courts.

Taxation issues tended to be the factor that would ignite the spark and unleash the judicial offensive of the communes, together with matters, as in the case in Genoa mentioned above, of justice. It happened that the obstacles placed by a *dominus loci* in relation to the action of the communal duties relative to a certain location or the opposing jurisdictional demands of the urban curia and that of the lords regarding a bloody act that occurred in the countryside initiated a judicial proceeding brought by the city *podestà* against the holders of the competing jurisdiction. The latter were then asked to demonstrate on what basis they exercised or claimed their prerogatives. And it is on this terrain that the clash between opposing political cultures emerged in all its significance. The judicial arena was in fact a far-from-neutral field: not only because of the contiguity of the urban magistrates to the *cives*, but because the proceedings opened at the curia of the *podestà* forced the *domini* to prove the legitimacy of their power on the basis of probatory elements drawn from a political culture that was often not the one on which their ascendancy over the rural inhabitants was effectively founded.<sup>62</sup> One example was an affair that occurred in Reggio Emilia in the second half of the fourteenth century, when an episode of uxoricide in the village *de Catellis*, close to the castle of Montevetro, generated a conflict of jurisdiction between the city commune and the Canossa family, who proclaimed themselves lords of the area.<sup>63</sup> The proceedings opened by the city *podestà* against the assassin soon turned into a challenge to the Canossas' claims. And it is the questions of the judges and the relative responses of the witnesses that crystallize the distance, in terms of political culture, between those two worlds. Asking the witnesses if the *dominus* possessed some imperial privilege to justify his domain meant rereading and filtering local policy practices through the network of a juridical culture that did not necessarily have any significance in local society. **(p.83)** Because while it is true that many castle lords were anxious, above all between the thirteenth and fourteenth centuries, to seek some form of legitimacy—preferably of an imperial nature—to stem, perhaps, the attacks of competing powers, starting with those of the city-states, it is also true that their authority in the eyes of the *homines* was not based on such concessions.<sup>64</sup> The lofty and territorialized concept of power that emanated from imperial diplomas—generally careful to list the locations included in the concession and precise in detailing the prerogatives granted, defined on the basis of Roman categories—clashed with the concrete government practice that emerged from the local sources. This referred to forms of exercise of power predominantly placed within a framework of agreement, of consensus sought, based on subjective and personal ties rather than impersonal bonds of obedience to the holder of the *iurisdictio*.

In such a context, the second question put to the countrymen appears even more tendentious. From the moment that the Canossa could not lay claim to an imperial privilege over Montevetro, the magistrates verified whether the jurisdictional claims of the noble household could at least be found in the *praescriptio longeva*—in, in other words, the inveterate exercise of jurisdictional prerogatives. The *podestà* therefore asked the witnesses if the lord of the castle exercised the *merum et mixtum imperium*, if he had the *ius sanguinis* (if, that is, he used to impose corporal and capital punishment and, if so, for how long it had been so). However, the very content of those questions, the expression of the only principles of political and juridical culture that the city recognized as legitimate (and legitimizing), seemed to have little meaning for the witnesses.<sup>65</sup> The foundations of obedience, for them, lay elsewhere. In large areas of the *contado* of Reggio, where the authority of the *domini castri* was nevertheless widespread and tangible, the most common model of justice was in fact the ‘negotiated’ kind, which did not take into account the initiative of a superior power. Conflict resolution was left to the parties involved, with great emphasis on methods of an infrajudicial nature (*vendetta*, arbitration, peace oath, etc.), which aimed to compensate the offended party (or his heirs) and restore violated honour.<sup>66</sup>

Against this backdrop, it may be well understood that the search for evidence of the exercise by the *dominus* of a ‘hegemonic’ justice, mirroring that of the urban courts, meant measuring the legitimacy of lordly power on the basis of parameters that were extraneous to the political culture of the *contado*. It is no surprise that the witnesses recalled a long-past episode in which the Canossa had hanged a man, though they immediately rushed to point out that he was a stranger, someone from outside the community, and who as such could not benefit from any form of negotiated justice.

#### Notes:

(<sup>1</sup>) Milani, ‘*Lo sviluppo della giurisdizione*’, 39.

(<sup>2</sup>) De Vergottini, ‘*Origini e sviluppo storico della comitatinanza*’, 67–76.

(<sup>3</sup>) Ibid.

(<sup>4</sup>) For example, in relation to Piacenza, Parma, see Chittolini, *La formazione dello stato regionale*, 97; Gentile, *Terra e poteri*, 34–5; id., ‘In Search of the Italian “Common man”’, 111.

(<sup>5</sup>) Briguglia, *Il corpo vivente dello Stato*, 45, which can also be referred to for a reconstruction of the history of the anatomical metaphor as a representation of the state and its various organs. But more generally on the latter, see also Struve, *Die Entwicklung der organologischen Staatsauffassung*.

(<sup>6</sup>) De Vergottini, ‘*Origine e sviluppo storico della comitatinanza*’, para. 24.

(<sup>7</sup>) Paul of Tarsus, *Epistle to the Romans*, 12, 4–5. ‘For as we have many members in one body, and all members have not the same office: so we, being many, are one body in Christ, and every one members one of another.’

(<sup>8</sup>) The unity of the class of jurists was ensured not only by the common training *sillabus*, but also by the close links between didactic and forensic activity. Cf. Cortese, ‘Legisti, canonisti, feudisti’, 195–281.

(<sup>9</sup>) Conte is suitably insistent on the threefold manifestation of law as a judicial, advisory, and legislative activity: Conte, *Diritto comune*, 129–30. Also Sbriccoli, ‘Legislation, Justice, and Political Power’.

(<sup>10</sup>) Sbriccoli, *L'interpretazione dello stato. Contributo alla formazione dei giuristi*; Menzinger, *Giuristi e politica*.

(<sup>11</sup>) Vallerani, *Consilia iudicialia*, citation from 67.

(<sup>12</sup>) Menzinger, *Giuristi e politica*.

(<sup>13</sup>) Chittolini, ‘Statuti e autonomie urbane’, 15. Sbriccoli, *L'interpretazione dello statuto*.

(<sup>14</sup>) Conte observes that the discipline of the Justinian *colonus* could be recalled in the council literature to uphold the defendant’s freedom and not just to limit his status. Conte, ‘L’utilisation de la législation Justinienne concernant le colonat’. More generally, Conte, *Servi medievali*, 99–116.

(<sup>15</sup>) Regarding which, see chapter 4.

(<sup>16</sup>) Vallerani, ‘La riscrittura dei diritti’, 153 ff.

(<sup>17</sup>) Vallerani, ‘Consilia iudicialia’; Artifoni, ‘Prudenza del consigliare’.

(<sup>18</sup>) With regard to this trinomial, Conte, *Diritto comune*, and Sbriccoli, ‘Legislation, Justice, and Political Power’.

(<sup>19</sup>) Ascheri, ‘Ancora tra consuetudini e statuti’, 193. Ascheri, ‘La “Pace” di Costanza’, 226 ff.

(<sup>20</sup>) Among the few cases already studied in relation to the thirteenth century, those of Asti and Alba can be mentioned. They present significant differences. In the period around 1200, both project their power into the surrounding countryside, but while in the first case the city commune immediately imposes the primacy of urban norms on local custom, in the second the passage is a far more gradual one. Fiore, ‘Norma della città e norma del territorio’.

(<sup>21</sup>) There is a lucid overview in Chittolini, ‘La validità degli statuti cittadini nel territorio’. For a preceding period, see Ascheri, ‘Législation et coutumes’.

(<sup>22</sup>) Menant, *Campagnes lombardes*, 513–17.

(<sup>23</sup>) Conte, *Servi medievali*, 104 ff. Tavilla's great book (as editor) *Homo Alterius* has to be cited. See also Francesco Panero 'Schiavi, servi e homines alterius nelle città e nelle campagne', 897–970.

(<sup>24</sup>) Barni, 'Cives e rustici', in particular, 6.

(<sup>25</sup>) Cammarosano, *Le campagne nell'età comunale*, 65.

(<sup>26</sup>) Varanini, 'L'organizzazione del distretto cittadino', 157.

(<sup>27</sup>) Cammarosano, *Le campagne nell'età comunale*, 58 ff.

(<sup>28</sup>) Carocci, 'Signoria rurale, prelievo signorile e società contadina', 79.

(<sup>29</sup>) Cammarosano, *Le campagne nell'età comunale*, 65.

(<sup>30</sup>) Panero, 'Schiavi, servi e homines alterius nelle città e nelle campagne'.

(<sup>31</sup>) Cammarosano, *Le campagne dell'età comunale*, 67.

(<sup>32</sup>) The Bolognese case has long attracted the attention of historians. See most recently *Il Liber Paradisus*, which also includes an extensive bibliography on the topic. See also: Waley and Dean, *The Italian City-Republics*, 80–2.

(<sup>33</sup>) Poloni, *Potere al popolo*, 59.

(<sup>34</sup>) Gamberini, *La città assediata*, 125; Milani, *I comuni italiani*, 128.

(<sup>35</sup>) Artifoni, 'I governi di "popolo" e le istituzioni comunali'.

(<sup>36</sup>) Worth looking at here is: *Magnati e popolani nell'Italia comunale*.

(<sup>37</sup>) Giansante, 'Ideologia e storia di una metafora'; Ricciardelli, 'Lupi e agnelli nel discorso politico'. Also Raveggi, 'Le forme della propaganda', especially 473 ff.

(<sup>38</sup>) There is an exhaustive survey of the anti-magnate laws in Fasoli, 'Ricerche sulla legislazione antimagnatizia'. But see also Mucciarelli, 'La legislazione antimagnatizia e la figura del magnate'. Koenig, *Il 'Popolo' dell'Italia del Nord*, 14–16. The ostentation of vassalage networks as class traits of the *milites* is noted by Chiappa Mauri, among others, 'A Milano nel 1164', in particular 22–3.

(<sup>39</sup>) Zorzi, *La trasformazione di un quadro politico*, 160; id., 'Negoziazione penale, legittimazione giuridica e poteri urbani'. With regard to Florence: Klapisch-Zuber, *Retour à la cité*.

<sup>(40)</sup> Milani especially is insistent on these aspects, *L'esclusione dal comune*, 445–62. On the disciplining of urban society carried out by the *Popolo*, see Poloni, 'Disciplinare la società'.

<sup>(41)</sup> Varanini, 'L'organizzazione del distretto cittadino', 147 ff. More recently, also Nobili, 'I contadi organizzati'.

<sup>(42)</sup> An aspect well described by Chittolini, 'La validità degli statuti cittadini nel territorio', in particular 51–3. For Reggio cf. Gamberini, *Lo stato visconteo*, 206–7.

<sup>(43)</sup> Conte, *Servi medievali*, 252–3.

<sup>(44)</sup> Torelli, *Un comune cittadino ad economia agricola*, I, 240–1.

<sup>(45)</sup> Conte, entry, 'Pillio da Medicina'. In 1277, as part of a more general agreement between the Bishop of Modena and the commune, it was decided that the lands granted in lease or as precarious property could be converted into allods, upon payment of a sum to redeem the cost of the rent. Conte, *Servi medievali*, 251–2.

<sup>(46)</sup> Conte, 'Roman Law vs Custom in a Changing Society', 40 ff.

<sup>(47)</sup> Panero, *Servi e rustici*, 91 ff.

<sup>(48)</sup> The *doctores*, linked by a host of connections to urban society, showed themselves to be 'sensitive to the same needs of mobilization within the rural population that led to Italian collective liberations'. Conte, *Diritto Comune*, 154.

<sup>(49)</sup> Conte, *Diritto comune*, 155.

<sup>(50)</sup> Conte, *Servi medievali*, 254 ff. Also Conte, *Diritto comune*, 133 ff.

<sup>(51)</sup> This, according to Tavilla, was the explicit intention of the jurist. Cf. '*Homo alterius*'. *I rapporti di dipendenza personale*, 185. More generally on this topic, see also Gamberini, *La città assediata*, 122–3; Hespanha, 'Savats et rustiques'. See also Panero, *Servi e rustici*; there is a different point of view in Conte, 'La ribellione al sistema signorile'.

<sup>(52)</sup> Hespanha, 'Savats et rustiques'.

<sup>(53)</sup> Menzinger and Vallerani, 'Giuristi e città', 220. But see also Fowler-Magerl, *Ordo iudiciorum vel ordo iudiciarius*.

<sup>(54)</sup> Menzinger, 'Forme di organizzazione giudiziaria'.

<sup>(55)</sup> Menzinger and Vallerani, 'Giuristi e città', 220.

<sup>(56)</sup> Milani, *L'esclusione dal comune*, 33.

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(<sup>57</sup>) Vallerani, 'Tra astrazione e prassi'.

(<sup>58</sup>) 'Omnis iurisdictio apud principem est et omnes iudices a principe administrationem accipere debent et iusiurandum prestare quale a lege constitutum est.' According to Dilcher, the terms *iurisdictio* and *districtus* indicate, in the constitution of Federico I, respectively the power to judge and the power to command, Cf. Dilcher, 'La Renovatio degli Hohenstaufen', especially 259 ff. But see also Costa, *Iurisdictio*, 374 ff. Most recently, Quaglion, 'Vecchie e nuove testimonianze sulla l. Omnis Iurisdictio'.

(<sup>59</sup>) Vallerani, 'La riscrittura dei diritti', 163–4. But also see the references mentioned in the following note.

(<sup>60</sup>) Milani, 'Lo sviluppo della giurisdizione', 40. Regarding the episode, see also Moggia, 'Esercizio e ripartizione della giustizia', in particular 14–15. The days had long gone when imperial charters were disregarded in litigations.

(<sup>61</sup>) *Liber consuetudinum Mediolani*, 113.

(<sup>62</sup>) Teuscher had already noted that the facts recorded by the texts in judicial proceedings assumed a certain significance in their original context and a different one in the court, where they were placed against the background of learned law. Teuscher, *Lord's Rights and Peasant Stories*, 63. And again: 'In the context of the witness deposition procedure, the court was interested less in details that were relevant to practice rather than those that were relevant to law.' *Ibid.*, 61.

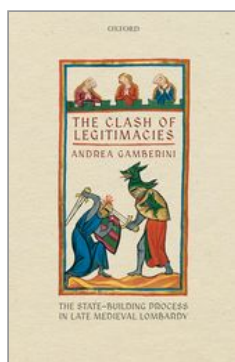
(<sup>63</sup>) I analysed this episode, which took place in 1388, in Gamberini, *La città assediata*, 45 ff.

(<sup>64</sup>) This will be looked at in greater detail later on, in the second part of the present book, chapter 7.

(<sup>65</sup>) It may be noted that this is the same strategy adopted by other city communes with regard to the lords established in their rural regions. For Piacenza, for example, see Chittolini, *La formazione dello stato regionale*, 192–4.

(<sup>66</sup>) Sbriccoli, '“Vidi communiter observari”'. Already a century later, however, there were many communities that, after overcoming a merely compensatory and conciliatory conception of justice, embraced the hegemonic system. Cf. Della Misericordia, '“Uno ufficiale per governare questo paese”'.





## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Political Cultures of the *contado*

Aristocratic Pre-eminence and the Subordination of the Rural Dweller

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### Abstract and Keywords

This chapter analyses power relations in the countryside, focusing on the relationships between the lords of the castle and the dependent peasants. The aim is twofold: on the one hand, to highlight the absence of a shared political culture and, on the other, to describe the individual ideas of each social group (the culture of violence promulgated by the lords, the attempt to establish pacts on the part of the peasants, the role of conflict in implementing political ties, etc.). In the face of such divergence, the chapter investigates the ways in which opposing political cultures could coexist and interact.

*Keywords:* Castle, lord, peasant, franchise, violence

If urban culture has left ample traces of itself in both the learned and pragmatic sources, thus making research life for the historian a little easier, it is a more difficult matter to reconstruct the political cultures common to the world of the countryside, or, at least, some of those worlds. As shown in the previous pages, the rewriting of jurisdictional rights carried out by the communes gave rise to a dynamics of 'camouflage' with respect to opposing languages, often with the effect of concealing the dissonant idealities and conceptual bricks with which they were constructed.

In the following pages, we will try to investigate the elements on which, in the eyes of the lords and rural dwellers, obedience was founded, in the belief that in the pages of the surviving documentation—even that deriving from the initiative

of hegemonic subjects, such as cities—it is still possible to find discourse of an ‘other’ kind with respect to the political and juridical world of the city.

Between the eleventh and twelfth centuries, a dense network of seigneurial powers spread out across the entire Po Valley area. Lay and ecclesiastical lordships, sometimes fairly small, sometimes broader and more extensive, rose up over much of the countryside, without, however, having received any kind of delegated power—feudal least of all—from the king. The historiography of recent decades has highlighted the characteristics of the phenomenon, identifying the differences between the various regional spheres. It has been noted, for example, that in Tuscany the authority of the *dominus* rested, at least at that particular chronological moment, more on control over land than on the construction of a castle, at least until the collapse of the Canossian principality in 1115 (and even later, it is true to say, castled lordships remained generally weak). This was not the case in the Lombardy area, where the *signoria* had a tendency to territorialize at an early stage, creating an area of influence that transcended the boundaries of the patrimonial domain of the *dominus*, to extend all around the *castrum*. As for the social profile of *domini loci*—the lay variety, at least—they were figures that were part of the military clientele of the great local powers (primarily bishops and monasteries, but also other important lay lords). This military function and the lord-vassal bond in fact became the foundational elements of aristocratic identity in this era.<sup>1</sup>

**(p.85)** The phenomenon presents two significant corollaries on the level of the political culture of the Lombardy countryside. On the one hand—as we have seen—the *milites* of the *contado*, not unlike the urban citizens, developed a warrior ethos, in which violence played an important part, both of a ritualized kind and of a kind free from all checks and limitations.<sup>2</sup> This was a factor that was so important in the processes of constructing a social identity as to leave traces of itself even in the onomastic choices of the *militia*:

*Malabranca* (Evilclaw), *Malnipote* (Vile grandson), *Pelavicino* (Neighbour ripper), *de Wasto* (I destroy), *Lancia* (Lance), *Guerra* (War), *Ammazzaconte* (Count slayer), *Cacciabate* (Abbot hunter), *Cacciaconte* (Count hunter), *Malaparte* (Evil clan), *Guastavilla* (Village ruiner), *Malapresa* (Pain grip), *Sagittaclericus* (Arrow priest), *Manducalomini* (Man eater), *Appillaterra* (landburner) etc.<sup>3</sup>

On the other hand, seniors among the *milites*—those at the highest levels—began to develop a culture of pre-eminence that, as a criterion of selection, used the place that each lord occupied within the feudal nebula in which the elites were encompassed. While not having the complexity and depth of the work of rewriting jurisdictional rights promoted by the city communes, this reinterpretation of power relations also appears to be the expression of a new political culture. There remains valuable evidence of this culture on a lexical

level. As Luigi Provero noted, ‘distinguishing the *capitanei* [those who were vassals of the bishop or some other regional power, such as counts and marquises] from the *valvassores* [those who were vassals of the *capitanei*] is a way to reread the opposition between *domini* and *milites* with a different political lexicon’.<sup>4</sup>

Between the eleventh and twelfth centuries, therefore, a language was formed that hierarchized the *milites* of the *contado*, not on the basis of the quality or origin of the power exercised, but on the basis of vassal dependence: it was a way to crystallize the social order and establish a stratification of political roles. Moreover, it was not only the actual distance, in terms of the wealth and material power bases that distinguished the various layers of the *militia*, that favoured the development of these organizational patterns for society.<sup>5</sup> There was also the tendency—already highlighted by Castagnetti in a royal *placitum* of 1088 (a judicial public assembly presided over by the king)—to insert the major and minor vassals in the public *potestates* of the *Regnum* (together with bishops, counts, marquises): an assimilation that makes it clear that the attempt at hierarchization in progress within the *militia* was an operation with manifest political, not only social, implications.<sup>6</sup>

**(p.86)** In this context, it cannot therefore be excluded that the emanation of Conrad II’s *Edictum de beneficiis* (1037)—which recognized the inheritance of benefits to the *secundi milites*, favouring a slackening in their relationship with the senior *milites*—triggered a reaction in the latter that led to the adoption of the *capitaneale* name. This, absent in the *constitutio* of Conrad II, is, on the other hand, attested to by public documentary sources from the middle of the eleventh century.<sup>7</sup> Faced, in other words, with rapidly changing social equilibrium, seniors among the *milites* also sought to stabilize their pre-eminence with respect to the *valvassores* in terms of terminology—the latter being figures who, by their very designation, betrayed an explicit condition of dependence.

It was, certainly, a process of rereading of the social and political order with a geographically limited scope (notwithstanding the generalizing proposal formulated years ago by Hagen Keller) and which, moreover, sought to sclerotize the rather dynamic changes that were taking place: something shown by the fact that in just a short time certain of the *valvassori* actually became richer and more influential than some of the *capitaneali* families.<sup>8</sup> What’s more, it was a measure that left a profound impression in terms of the definition of social pre-eminence (so much so, that in the thirteenth and fourteenth centuries the memory was still vivid in Milan of who had been *capitaneus* and who *valvassor*).<sup>9</sup>

Yet, its political effect was less significant: the extraordinary centripetal strength of the Lombard city, capable of attracting both the senior *milites* and the *secundi milites* (something, in the case of Milan, that happened with extraordinary speed), soon rendered obsolete the ideal filter that divided the *militia* into

*capitanei* and *valvassori*. It is no coincidence that when, more than a hundred years later, Otto of Freising, in a famous passage in his chronicle, recorded the presence of *capitanei* and *valvassores* and *cives* amongst the city consuls, he intended to refer to a social distinction, a rank, that 'had in itself no juridical, and even less, political value.'<sup>10</sup>

And yet, beyond the outcomes themselves, in a perspective concerned with the rebuilding of political cultures, it is certainly significant that at a precise moment, concomitant with the birth of the communes, there were aristocratic circles intent on developing new categories of primacy, classifying them in a way that made no particular reference to the urban world and its political dynamism.

As for the participation of some of those families in the constitutive processes of the commune, this is far from inconsistent with the emphasis placed above. It is the proof of the informal nature of the original communal institutions, of the absence of a political project that was immediately concerned to replace the public (p.87) powers of the kingdom, still formally represented by counts and bishops.<sup>11</sup> Even in the middle of the eleventh century, the vassals' court that developed around the great ecclesiastical institutions (bishops, monasteries) and great public officials with their new dynasties (counts, marquises) constituted the heart of aristocratic sociality and the centre of gravity of their political activity.

How this elaboration of the social and political primacy of the *milites* could then be translated into the effective ability of dominion over large sectors of rural society is a matter that certainly regarded the power relations between the parties, but also involved the cultural dimension of the *dominus/homines* relationship. This was the sense that the various actors attributed to the gestures and exchanges (both material and immaterial) that inspired the relationship, thus justifying the existence of a bond of dependence. Without making light—especially for the eleventh and twelfth centuries—of the importance that aristocratic violence could have not only in the concrete dynamics of power, but also in the 'inferiorization of the seigneurial dependents' on a cultural level,<sup>12</sup> there must also be taken into consideration the tendency of these dependents to develop a different form of political language, which established the relationship with the lord on the reciprocity of rights and duties. The impression, in short, is that something new was taking shape in the world of the countryside.

To represent the topic, we must take our start from the highly varied conditions of rural dependents in the eleventh–thirteenth centuries. Recent research has clearly outlined the irreducibility of the countryman's status to rigid models of seigneurial dependence. Both in the context of the landlordship and in that of the territorial lordship, the condition of the countryman was fragmented into a plurality of situations. Even the many terms utilized in the sources to designate

those who were subject to the power of a lord do not in the least reflect all the various existing social and political conditions. *Rustici*, *manentes*, *districtabiles*, and *homines* are the expressions most often used, but what actually lay concealed behind each of them—in terms both of individual status and of the political cultures on which these statuses were in some way based—is a matter that is hardly univocally solvable. Historians have, in fact, demonstrated the limits of an enquiry carried out exclusively (or predominantly) in terms of terminology. It may be true that the denominations assumed by the various groups of rural dependents were affected by the influence of learned law, by attempts that through it were brought about in post-Irnerian times to reread and then remodel preexisting ties—a phenomenon that was a part of the wider rewriting of rights mentioned in the previous pages. However, it is equally true that the outcomes of these interventions were not uniform but divided into a plurality of local uses.<sup>13</sup>

**(p.88)** Situations were different from place to place, therefore, but there were also changes and transformations over time. Local uses were often subject to renegotiation, as some recent studies have shown, focusing on the method of construction and transformation of custom. Initially regulated on the basis of oral tradition, the ties between *dominus* and men were periodically evoked through solemn and public rituals, in which community representatives swore an oath of *usus* in the presence of the lord and the rest of the men, who were gathered together for the general pledge-taking. Similar in function and content to the *Weisungen* of the Germanic tradition, or to the *rapports de droits* of certain French areas, these ritual oaths—evidence of which remains in written form, usually produced at the end of a dispute—were not only of value in terms of acknowledgement, of certification of a relationship of dependence, but also represented a good opportunity to remodel the political obligation. It could happen, in fact, that the contestation of aspects invoked or denied by one of the parties resulted in a dispute whose outcome, when accepted by the contenders, became established in public memory, thus bringing innovation to custom.<sup>14</sup>

It is worth noting that the redefinition of spaces of local custom, although particularly favoured by the flexibility of a normative tradition passed down orally, did not even come to an end in the presence of charters of franchise—written documents and hence, by their very nature, fixed. Luigi Provero's penetrating research on south-western Piedmont has made it possible to perceive the dynamic nature of the negotiation that lay behind apparently exceedingly arid acts, such as charters of franchise. Through the valorization of elements such as the social profile of community agents, the place of issue of the franchise (the castle, the village), the joint participation of men and *dominus* in working out the definition of *usus*, there emerged the various positions of strength of the actors involved, and ultimately the negotiated character of the agreement.<sup>15</sup>

Keeping open negotiation spaces was the relationship between franchise and *usus*, which established itself in terms of complementarity and certainly not of otherness. As Alessio Fiore has noted, the two areas were mutually referential: whether because the charters of franchise dealt only with certain aspects of community life, leaving the rest to local custom, or because they often laid down general principles (such as the military obligations of the *homines*), the application of which was once again ceded to custom (such as the definition of the concrete procedure of military service).<sup>16</sup>

Despite, therefore, the differentiation of *usus* on the basis of time and space, the sources well convey the sense of an effort, tenaciously put into effect by the peasantry, to negotiate and renegotiate the conditions of their own subjugation. There was, it seems, the desire to establish a praxis that was more or less openly based on **(p.89)** agreements, taking advantage, perhaps, of the opportunities that seemed to be opening up with the transition from an oral to a written normative tradition.<sup>17</sup>

It is not an easy task to evaluate the actual dissemination of seigneurial government based on consensus: the redefinition, in a negotiating sense, of the relationship between lords and countrymen has generally left, in the range of sources, far clearer documentary evidence relating to those based on the violent exercise of power.<sup>18</sup> However, it should also be considered that rural resistance played a part, ready as it was to explode at the first opportunity, in favour of an understanding between all the actors involved, capable of overcoming practices of dominion based on the mere exercise of force.<sup>19</sup> As Fiore recently remarked, 'the multi-year recurrence of a practice (and hence custom) does not automatically confer legitimacy upon it, if the subjects do not perceive it as just.'<sup>20</sup>

Questioning the state of the sources, however, means not only to reflect critically on the actual dissemination of agreements between lords and men, or on the ability of the latter to act politically through the written word. It also means to focus on how the writings in some way attributable to the protagonism of the *homines* (from the oaths of the *usus* to charters of franchise to judicial testimonies) represent for the historian one of the few channels of access to the ideality that was common to the rural context.

The mechanisms of fixation of the memory of the *usus*—particularly the delicate transition from individual/collective memory to document—opened up the possibility for rural dependents to express the bases, in their eyes, upon which obedience to a higher power was founded. Proof of this is in certain ways found in the oaths of the *usus* and charters of franchise, both revealing—as has been seen—a culture of reciprocity in terms of the duties of *domini* and countrymen. Even more revealing, however, are the testimonies—the depositions, in other words, of rural dwellers verbalized on the occasion of a dispute.<sup>21</sup> Caution is

suggested by the research, which has underlined the often other-directed character of such testimonies, given that the choice of texts and their order of appearance were not random, but could be decided by the lords.<sup>22</sup> However, judicial disputes allowed countrymen a rare opportunity to speak out, and it was an opportunity which they were often successful in grasping. This ‘to speak for the lord’ could in fact become an opportunity **(p.90)** ‘to speak to the lord’: a way, that is, to make expectations known to him, to project roles upon him, to assign him duties and responsibilities.<sup>23</sup> From this point of view, even in cases where the depositions of the countrymen are acknowledged as merely (or predominantly) tactical, linked, that is, to a procedural strategy—something that would make the depositions, not a portrait of the existing moment, but if anything an attempt to influence the current praxis—this would not invalidate their significance at the level of ideal elaboration and hence their value as a cultural product.

The point we have arrived at, therefore, is this: if the actions that gave substance to the relationship between lord and *homines* are also known through a variety of sources, only the testimonials, however, offer the interpretation that the countryman gave to this behaviour. In the words of the latter, the actions and rituals of the practice are freighted with cultural significance, the expression of what for the *homines* are the very foundations of the political bond. That is why analysis of the testimonials makes it possible, with all the caution in the world, to discern the gestures that in the sentiment of the rural dwellers were regarded as instigating a political bond.

One main element on which the sources insistently converge concerns the management of seigneurial land. In a great number of contexts, obtaining land leased out by a lord was an action that generated dependence.<sup>24</sup> What varies significantly in terms of the *usus* is the contents of the bond. For example, in testimonies concerning the canons of Casale Sant’Evasio and Asti (late twelfth to early thirteenth centuries), it is written that ‘obtaining land from the Church determines not only an economic and juridical relationship, but transforms the status of the persons [i.e. the tenants]’, considered dependent on the parish for *fodrum* (hospitality tax) and seigneurial ban (power of command).<sup>25</sup> Elsewhere, as in the neighbouring district of Novara, and in the Bergamo or Cremona districts, the concession of land was a bond, but—partly owing to the presence of strong competing powers—it was based on the attribution to the lord only of low justice, lodging, and, to a certain extent, *corvée*.<sup>26</sup>

It is worth noting that, in both of the above-mentioned events, identifying the land concession as the source of a political bond could be a convenient thing for all the actors involved: this was certainly the case for the lords, who in this way were not debtors to the *publicum* (i.e. the emperor) for their power over the *homines*. It was no less convenient for the countryman, meanwhile, who could

link the reciprocation of *servitia* to concrete correspondences, such as land management and protection (both judicial and military).<sup>27</sup>

**(p.91)** The culture of possession seems therefore to represent a goal largely shared between peasants and lord. Thus, by taking advantage of the meaning given to the land by the parties, the glossators succeeded in reconfiguring the antique contracts based on custom into agrarian pacts of *manentia*, which bound the peasant and his descendants to the land, or the *resedium* granted by the lord, in perpetuity.<sup>28</sup>

The depositions of the *rustici*, however, also disclose other instigating elements of obedience. Where, for example, the *homines* managed the land of more than one lord—resulting in a potential conflict of loyalty engendered by the various concessions—the element that the witnesses recognize as discriminating is undoubtedly residence. From Piedmont to Tuscany, there is an abundance of confirmation to support this, a convergence of agreement over the principle of the countryman's subordination to the lord on whose land he, the countryman, habitually dwelt.<sup>29</sup> It is easy to see, then, why the monastery of Santa Cristina di Corteolona was careful to ask for a contribution of clear recognitive value from the tenant who was also resident on the grounds of the ecclesiastical body.<sup>30</sup>

If, in general, the land-residence-status bond was generally brandished in order to assert the subordination of a man to a specific lord, there were also cases in which the argument was produced for the opposite purpose—in other words, to assert the complete absence of any kind of dependence. This is what happened, for example, when a small landowner who also managed other people's lands decided to oppose the claims of the granter by drawing attention to his condition as a free resident on his own land.<sup>31</sup>

The concern to see the independent condition of small landowners acknowledged also had some repercussions on the level of terminology. In the Ferrara district, north of the Po, for example, to indicate allodial land, free from the burdens and obligations of a landlord, the term *arimannia* was still in use between the twelfth and thirteenth centuries. This was a lexical relic from epochs long past (in the Lombard age *arimannus* indicated a free Lombard soldier and property holder), but immediately evocative of a state of freedom. And, similarly, in many areas around Verona, Mantua, and Padua, the word *arimanni* at that particular time designated the free landowners (and *arimannia* was the tribute that the latter paid to the lord of the ban to have their status acknowledged).<sup>32</sup>

With respect to this scenario, however, there was another element that the peasantry felt very strongly about, and which prevailed over the culture of possession: and that was protection. In fact, in landlordships, this was already part of the exchange of services between the *domini* and the tenants: the



landowner provided his dependents with military protection from the incursions of other lords or **(p.92)** neighbours and also defended them in cases of dispute.<sup>33</sup> But this type of protection was not always sufficient. In situations of violent conflict in particular, only a castle could offer shelter to men and their produce. And it was in difficult moments such as these that there took shape what could be defined as the culture of *confugere ad castrum*, for which the countrymen acknowledged themselves to be dependents of the *dominus castri* that offered them refuge *tempore guerre*. A 1224 dispute is a good example of this, in which the church of S. Stefano is in opposition to the lords of the castle of Torcello (near Casale Monferrato) with respect to dominion over certain kinship groups. According to one witness's deposition, some of the abbot's men—holding land given by the latter and resident thereon—at some point began to carry out some services at the castle of the lords of Torcello and this 'in the time of the war and after the war unto this day'. A new political bond, instigated by the need for security, seems to have been activated. Convoluted, yet unambiguous, the witness's words allude to the close connection between protection and obedience, and the new relationship of subordination that arose as a consequence, with the services at the castle taken as a sign of this. The attempt was then made by the Torcello to transform this praxis into a recognized right, highlighting its inveterate observance.<sup>34</sup>

I will come back later to the developments of this particular political culture. For now, it is worth pointing out that not every peasant had the opportunity to indulge in a voluntary search for seigneurial protection. This was often imposed by intimidation, if not by brute force.<sup>35</sup> Yet even in such asymmetrical situations, where political bonds were imposed from the top rather than sought from below, the *dominus/homines* relationship seems to have remained firmly confined within a framework of an exchange of services. This is indicated by the lord's prompt reaction on the occasion of the damage inflicted on, and raids perpetrated against, his men by rival lords, perceived not only as a *vulnus* to his honour, but as a threat to the foundations of his power.<sup>36</sup>

For countrymen, the *castrum* was therefore central in the activation of a bond of obedience and also carried a symbolic meaning: no wonder, then, that the violent conflicts of seigneurial power took these fortifications as a target, to be either ravaged or demolished. To take some examples from the Milan area alone—where the fortresses were not only instruments of dominion over men, but also a form of control over their possessions, which had to be stored there<sup>37</sup>—acts perpetrated by countrymen caused damage to castles in Arosio in 1211, in Origio in 1231, and in Inzago in 1241. And other cases could easily be cited.<sup>38</sup>

**(p.93)** While a castle's centrality may be acknowledged as the activator of a political bond, the agreements between the locals and the lord on the use of the *castrum* can also be a good indicator of the process of emancipation for the rural dweller, which had been in progress since the twelfth century at least. From the

district of Novara to that of Vicenza, there was an abundance of pacts designed to regulate not only the custody or maintenance of the castle, but also the division of fines between *dominus* and men over crimes committed in the *castrum*, the use of *canivae castellanae* (the castle cellars) and the right to enter and leave the fortalice freely.<sup>39</sup>

The highest point of this tendency is probably represented by the cases in which the lords resigned themselves to handing over the castle itself to the countrymen (at times in fief, at times leasehold, at times with rent): the Venetian area, well explored in the studies of Castagnetti, produced the examples of Marzana (1121) and Poiano (1138), both in the Verona district, and Thiene (1166), in the area of Vicenza.<sup>40</sup>

In addition to military and judicial protection, sources also show another form, which became increasingly important over the course of the thirteenth century in the legitimation of seigneurial power: taxation. Bit by bit, in fact, as the grip of the urban commune on the *contado* became tighter, with the intensification of collection and the introduction of increasingly sophisticated fiscal instruments, defence from the taxes and levies imposed by the cities became a primary factor of legitimation for the lords. To return to Milanese territory, some episodes spring to mind in which small rural communities took a stand, prepared to put themselves under the rule of important ecclesiastical bodies (starting with the monastery of Chiaravalle) in order to escape from the urban *districtus*.<sup>41</sup>

Protection and reciprocity of obligations are also recognized as pillars of another political culture, one that was widely used to hierarchize rural society (or parts thereof): feudal culture. We have already mentioned the importance of the feudal ties with bishops, monasteries, and important public officials. But in the eleventh and twelfth centuries such bonds involved not only the highest strata of society, spreading also to much lower levels. In the Po Valley area, Menant's research has provided a fine description of the *scutiferi feudati*, countrymen who fought on horseback alongside the lords (*milites*).<sup>42</sup> Rural vassalage, however, went far beyond the figure of the *scutifero*, small landowners, who through feudal channels linked up with the castle lords (in exchange for other land in benefice but also at the cost of swearing the oath of *fidelitas* and *salvamentum loci*), and simple peasants, with military obligations of a less defined kind, but who were still vassals.<sup>43</sup>

From the thirteenth century on, however, a phenomenon took hold which, for the purposes of the present work, seems particularly significant. In many contexts, **(p.94)** feudal terminology began to filter into the relationships between the *manentes* (tenants) and their lord, as shown by the lease agreements relating to seigneurial lands, which were often enriched by clauses (and formulae) derived from vassal-beneficiary praxes. Those who held seigneurial land were increasingly requested for an oath of *fidelitas*: a contamination that was in some

way made possible by the pactual logic which formed the basis for both *signoria* and vassal/beneficiary kinds of relationship.<sup>44</sup>

Notes:

(<sup>1</sup>) See the detailed remarks of Provero, 'Dinamica sociale e controllo signorile'. More in general, there is an extensive survey of the Lombard area in Andenna, 'Le strutture sociali in età signorile e feudale'. For a comparison with other areas, *Strutture e trasformazioni*.

(<sup>2</sup>) For a case in the Reggio region, cf.: Fumagalli, *Il Regno Italico*, 243–9. Regarding lawsuit petitions: Cammarosano, 'Carte di querela'.

(<sup>3</sup>) The theme of seigneurial onomasticism as a sphere of the self-representation of the value system of noble lines has been investigated for the Tuscan area by Collavini, 'Sviluppo signorile e nuove strategie onomastiche'. There is no lack of detail, however, for an investigation into other areas as well: cf. Fiore, 'Rituali di violenza', 459–60.

(<sup>4</sup>) Provero, 'Dinamica sociale e controllo signorile', 452 ff.

(<sup>5</sup>) Andenna, 'Le strutture sociali in età signorile e feudale', in particular 256 ff.

(<sup>6</sup>) Castagnetti, 'Introduzione', 14–15.

(<sup>7</sup>) *Cuonradi II constitutiones*, 39. On the diffusion of the term *capitanues*, see again Castagnetti, 'Introduzione' and Occhipinti, 'I capitanei di Milano'.

(<sup>8</sup>) Keller, *Signori e vassalli*. On the debate stirred up by the work, also see, apart from the author's preface to the Italian edition, the essay by Grillo, 'A Milano nel 1130'. Also worth consulting, Menant, *Campagnes lombardes*, 563 ff.

(<sup>9</sup>) Thus, for example, the *valvassori* Crivelli, who included a pope in the twelfth century, and were one of the richest families in Milan in the thirteenth century, were considered less noble than the Soresina, whose *capitaneale* origins were still remembered in the thirteenth century. Noted by Keller, *Signori e vassalli*, 202.

(<sup>10</sup>) Castagnetti, *Feudalità e società comunale*, in particular 210–11.

(<sup>11</sup>) Milani, in particular, and more recently Wickham have both emphasized the nature of the original commune as an informal institution. Milani, *I comuni italiani*, 24 ff., and Wickham, *Sleepwalking into a New World*, 22 ff., 195 ff.

(<sup>12</sup>) Fiore, '“*Bonus et malus usus*”', citation from 502. The theme is reprised and extended in id., *I rituali della violenza*.

(<sup>13</sup>) A lucid description of the problem occurs in Collavini, 'La condizione dei rustici/villani nei secoli XI–XII'.

(<sup>14</sup>) Fiore, ‘“*Bonus et malus usus*”’, in particular 514 ff.

(<sup>15</sup>) Provero, *Le parole dei sudditi*, 18 ff. More generally on this topic, also see Menant, ‘Les chartes de franchise’.

(<sup>16</sup>) Fiore, ‘Giurare la consuetudine’, 71.

(<sup>17</sup>) Provero, *Le parole dei sudditi*, 28. On this see Gamberini, ‘“Sentire” o “ascoltare” le “parole dei sudditi”?’ The ability of the rural dwellers to use court testimony to their own advantage is also highlighted by Faini, ‘Le memorie del territorio’. Merati also makes some remarks on the subject, ‘La rappresentazione dell’esperienza’, in particular 457.

(<sup>18</sup>) Fiore, ‘“*Bonus et malus usus*”’, *passim*. Moreover, there is also no lack of evidence of the intransigent line taken by some lords, capable of preventing *homines* from expressing (and imposing) their own version of the *usus*. Cf. Fiore, ‘Norma della città e norma del territorio’, 68, which describes the events that in 1198 saw the Archbishop of Genoa in opposition to the inhabitants of Molassana.

(<sup>19</sup>) See in this case the remarks by Bortolami, ‘Lotta e protesta contadina nel Veneto’.

(<sup>20</sup>) Fiore, ‘“*Bonus et malus usus*”’, 514.

(<sup>21</sup>) The ability of the countrymen to interpolate collective memory, to take advantage not only of the collective oath-taking rituals of the *usus*, but also of judicial depositions, is emphasized by Teuscher, *Lords’ Rights and Peasant Stories*, 92 ff.

(<sup>22</sup>) Provero, *Le parole dei sudditi*, 205 ff. But see also the comments in the volumes: *Authentic Witness*; and *La parola all’accusato*.

(<sup>23</sup>) Provero, *Le parole dei sudditi*, 445 ff.

(<sup>24</sup>) According to dynamics that can already be observed in embryo in the manorial system in the post-Carolingian age. Violante, ‘La signoria rurale nel contesto storico dei secoli X-XIII’, in particular 15 ff. For the twelfth and thirteenth centuries, there are also various examples in Provero, ‘Comunità contadine e prelievo signorile’, 561.

(<sup>25</sup>) Noted by Provero, *Le parole dei sudditi*, 244–5.

(<sup>26</sup>) Andenna, ‘Dal regime curtense al regime signorile e feudale’, 235. Id., ‘Formazione, strutture e processi’, especially 140 ff. On the Bergamo, Cremona, and Brescia districts, cf. Menant, *Campagnes lombardes*, 460 ff. But more generally on these aspects, also Keller, *Signori e vassalli*, 136 ff.

(<sup>27</sup>) Fiore is emphatic regarding the convenience for the lords: Fiore, *Sudditi e signori*, 419. However, it is also worth recalling the convenience for the country dwellers.

(<sup>28</sup>) On these aspects: Panero, *Schiavi, servi e villani*, 229 ff.

(<sup>29</sup>) Provero, *Le parole dei sudditi*, 91 ff.; Wickham, *Legge, pratiche, conflitti*, 155 ff.; 231 ff. Wickham points out that managing the land of more than one lord could also be a useful expedient in terms of slackening the dependence of the peasant.

(<sup>30</sup>) Chiappa Mauri, *Tra consuetudine e rinnovamento*, in particular 59.

(<sup>31</sup>) Wickham, *Courts and Conflicts in Twelfth-Century Tuscany*, 88.

(<sup>32</sup>) On the semantic transformation of *arimannus* cf. Tabacco, 'I liberi del re', 167 ff.; Castagnetti, *Le comunità rurali*, 35 ff.

(<sup>33</sup>) Wickham, *Courts and Conflicts in Twelfth-Century Tuscany*, 89.

(<sup>34</sup>) 'Tempore guerre et post guerram, usque ad hunc diem'. There is a detailed analysis of the event in Provero, *Le parole dei sudditi*, 253 ff.

(<sup>35</sup>) Provero, *L'Italia dei poteri locali*, 64. This is a reading fundamentally in agreement with that of Algazi, *Herrengewalt und Gewalt der Herren*. But regarding the latter, cf. Bellabarba, 'Violenza signorile', 153 ff.

(<sup>36</sup>) Examples in Bortolami, *Territorio e società*, 99 ff.

(<sup>37</sup>) This was what was set out in the Milanese *Consuetudini*. Cf. *Liber consuetudinum Mediolani*, 111.

(<sup>38</sup>) Grillo describes this episode, 'Rivolte antviscontee a Milano e nelle campagne', in particular 200. For the Veneta area, see Castagnetti, *Le comunità rurali*, 26 ff.

(<sup>39</sup>) Castagnetti, *Le comunità rurali*, 25 ff. Settia, 'L'incidenza del popolamento sulla signoria locale'.

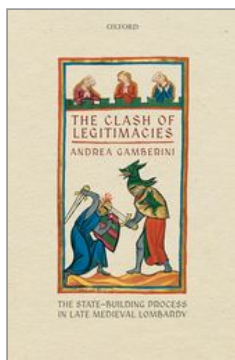
(<sup>40</sup>) Castagnetti, *Le comunità rurali*, 25 ff.

(<sup>41</sup>) Chiappa Mauri, *Paesaggi rurali di Lombardia*, 122-3; Grillo, 'Rivolte antviscontee a Milano e nelle campagne', 203-4.

(<sup>42</sup>) Menant, *Lombardia feudale*, 277 ff.

(<sup>43</sup>) *Ibid.*, 286-7; *id.*, *Campagnes lombardes*, 563 ff.; Bordone, 'Lo sviluppo delle relazioni personali', 241-9; Barbero, 'Vassalli, nobili e cavalieri', 619 ff.

(<sup>44</sup>) Menant, *Lombardia feudale*, 286 note 26; Cammarosano, *Le campagne nell'età comunale*, 31.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## Rural Communes and the Culture of Practices

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### Abstract and Keywords

The projection of city-state political culture on to the surrounding countryside did not only generate forms of resistance from and misunderstanding with local society. This chapter shows how certain social and political actors active in rural areas managed to exploit urban political and legal culture, bending it to their own interests. In other words, the advent of city domination created new possibilities, especially those linked to the activity of the communal courts, which could transform the claims of certain countryside figures into concrete rights. The chapter offers an analysis of several of these situations, in order to provide a clearer understanding of the relationship between city and countryside.

*Keywords:* City commune, trial, urban law, territorial law, culture of practices, ritual

In the countryside at the height of the medieval period, relationships of subordination to a *dominus* intertwined and coexisted with the many forms of horizontal solidarity that over time contributed to linking the individual to other sections of local society: kinship, neighbourhood (whether of residence or possession), class, religious participation, etc. Whether it was the collective management of a resource that brought men together (a pasture, a canal, road tolls), devotional practices at a place of worship (church, cemetery) or interaction with an external subject (often the *dominus*), the outcome was in many respects a similar one: the creation of a social space which, even with boundaries that varied over time, could become an incubator of significant political ties.<sup>1</sup>

The point here worth emphasizing is that this wide range of fluid solidarity, when condensed into the most achieved political form, tended to take on the communal structure already observed in relation to cities. It is a dynamic that can be observed in the genesis of rural communes, but that can also be found in their subsequent transformations: 'every time that between residential groups within the same commune, for a variety of reasons, barriers were interposed that interrupted custom in terms of gathering, the circulation of information, and mutual trust, a rethinking and adaptation of the institutional units were regularly imposed.'<sup>2</sup>

Amongst the various instigators of political solidarity, co-residence was certainly one of the strongest. The diffusion of centralized forms of habitat was, at the beginning of the twelfth century, largely dominant in the Lombard countryside. Even when it was not a matter of a *dominus loci* that fostered the concentration of *homines*, the necessity of cooperation in exploiting property and land had, however, convinced inhabitants to share the same settlement, whatever their original condition.

Freemen and serfs, tenants, sometimes even small landowners, ended up living in the same village, creating a community whose cohesion was further cemented by elements such as the construction of a church or interaction with a lord. The subordination to a *dominus*, in particular, on the one hand favoured a levelling process of individual status, which tended to dissolve into a new category, that of the *rustici* (where content varied according to local custom). On the other hand, **(p.96)** however, it induced a strengthening of horizontal ties between the *homines*. As a great deal of research has clearly shown, this was the way that, in the Po Valley area, many village communities established themselves as communes, which in a short period of time became an instrument for the progressive emancipation of the *rustici*.<sup>3</sup>

When supported by a proper identitary investment, residence was therefore a robust generator of political solidarity. Even already-formed communes could pay a high price for the increased ambitions of groups of co-residents. Whether it was a large valley community, such as Ardesio (which in the middle of the twelfth century embraced all of the high Val Seriana, but had to face the discontent of other settlements in the valley) or a village commune that perhaps had to deal with the inhabitants of a restless *contrada*, the outcome of the centrifugal thrust was the same: a sort of communal parthenogenesis, with the emergence of new rural communities.<sup>4</sup>

With respect to this scenario, it is worth noting the existence of a factor of political aggregation that in some territories appears to be even stronger than residence: class membership. In late medieval Lombardy, there were indeed areas (in the *contadi* of Milan, Bergamo, Como, etc.) where the sources reveal an extremely marked class polarization of society, with a rigid distinction between



the local nobles and the *vicini* (common people living in the *vicinia*—the neighbourhood). And if in some territories the two groups both took part in the life of the commune, sharing representation equally between them,<sup>5</sup> in others they acted on different political levels, with neighbours (*vicini*) forming their own commune and the nobles—who yet resided in the same village—organized in terms of kinship, if not indeed in a *commune nobilium*.<sup>6</sup>

It appears, in fact, to be a picture in line with those studies that have highlighted the early development of rural society, where the *boni homines*, the *maiores*—to employ some of the expressions that recur most frequently in the sources—constituted highly dynamic elites.<sup>7</sup> Perhaps the more interesting aspect of this dynamism, however, is that it produced not only social mobility, but also a redefinition of status markers and, ultimately, the very idea of nobility in a local context. The impression—one that is also supported by a Como statute of 1281—is that those rural nobles who sources show were intent at times on challenging the *vicini* for communal representation, at times on creating their own *commune nobilium*, **(p.97)** were not composed only of military elites (the *milites*), or the holders of an honorific and noble fief, but—at least in some contexts—also by the allodiaries, who were far more prominent compared to the great mass of *manentes*. Where, in fact, the property was a monopoly of clerics and ecclesiastical institutions, the nobles and the *cives*, those countrymen who could buy land also actually acquired the status of nobleman, promptly recognized *in loco*.<sup>8</sup>

Whether the rural commune was created in opposition to the lord, or was in some way connected to him (perhaps as a result of a charter of franchise being granted), or was yet entirely independent (as Wickham showed for the Luccan plain), it was indisputably a protagonist in countryside political life, at least from the second half of the twelfth century. Various factors form the basis of this success, beginning with the great flexibility of the communal model, which adapted perfectly both to towns (where the commune appears in the same years as it also occurs in cities for the first time), and small villages (rarely mentioned before the twelfth century). Also important for its success were the principles of culture on which it rested. By regulating collective participation in political life, these helped bestow legitimacy on the commune, presented as a unitary political body (the decisions of the assembly were taken *concorditer*, *unanimiter*, that is harmoniously, unanimously). It was also capable of giving balanced representation (in the council, in the offices) to the various social sectors of which it was composed.<sup>9</sup>

Combining plurality and unity, direct participation and representation, these principles of political culture not only reflected the orderly life of the communities, but also rendered another operation possible, which was one more expression of the dynamism of rural society. This was to replicate the community model in increasingly broader, inter-coordinated forms, so as to create a system

of modular political structures able to interconnect various territorial levels. This can be seen in a local context, as in the events of Velate, where in the early twelfth century the commune of *vicini* and the commune of nobles appeared as constituent elements of the larger *commune loci*.<sup>10</sup> But it can be noted above all at the super-local level, for example in the Locarno area. Here, at an early stage, rural communities participated with their own representation in the life of a wider federal community, following developments that between the fourteenth and fifteenth centuries were highly successful in the whole alpine and pre-alpine area.<sup>11</sup>

**(p.98)** In relation to this dynamism, greater or lesser proximity to the urban centre generally played an important role, at times restricting, at times increasing, the bottom-up spaces of initiative. But these spaces never—not even in the city communes’ maximum extra-urban projection—dwindled to the point of disappearance. On the contrary, the clash between the notarial culture, the learned juridical culture employed by the city commune to solve disputes, and the culture of possession, with which for preference the protagonists of the countryside complied, generated a field of tension—a tension that was a creator of opportunity for local actors, starting with the rural communes themselves.

Keen on creating a *contado* that was submissive and above all capable of absorbing the increasing fiscal pressure (fodder, public works, gabelle of salt, etc.), the cities elaborated ever more complex and invasive territorial management strategies, with the rural communes themselves becoming a valuable instrument. In fact, urban centres did not restrict themselves to creating networks of officials and magistrates throughout the countryside, or to carving out new administrative districts (such as the *fagge* or *quadre*, territorial slices that originated with the city gates, or the districts modelled on parishes), but identified in the rural communes the terminals of their own jurisdictional and fiscal action.<sup>12</sup> This gave rise to the drafting of lists of rural communes subject to the city, but also measures—widely mentioned in the city statutes from the middle of the thirteenth century—aimed at regulating the countrymen, providing each of them with a commune of residence (with which they became jointly and severally responsible with respect to the requests of the city), at constituting them, under certain specific conditions, as communes, and at identifying the boundaries between one commune and another.<sup>13</sup>

All in all, there was an immense effort towards stabilization and organization. On the one hand, while this served to block the development of forms of super-communal co-ordination (confederated communities appeared in the thirteenth century only in areas far away from the city),<sup>14</sup> on the other, it encouraged the initiative of the most enterprising amongst the local political actors, who were interested in redefining the community’s political space more in line with their own aspirations.

The enucleation of a jurisdictional district, the division of tax burdens, the clear separation of the territory of two villages—these were all operations that triggered disputes between local inhabitants regarding the matter of boundaries. It is an aspect that certainly contributed to the indeterminacy of the latter, which **(p.99)** were often defined more in zonal than linear terms: rather than the idea of territorial coherence—and therefore the clear separation between the spaces of two villages—what the communities were interested in was the relevance of resources and rights, which could also overlap and intersect.<sup>15</sup> And yet, the most striking impression is that, even when recognizable, borders could be the subject of bottom-up projects of redefinition, exploiting the opportunities opened up by the interaction between political cultures.

There is a great deal of evidence in the late medieval countryside that bears witness to the so-called ‘culture of practices’. This was a culture centred on possessory actions in order to lay claim to a good or a prerogative: examples include processions that passed across a specific territory, marking the border; the formal request of a lord who asked a countryman for service; the violent expulsion of a peasant from a piece of land, etc.<sup>16</sup>

However, in order for these ‘practices’ to generate rights, it was necessary for them to take place publicly, so that they could then establish a factual situation that could be referred to in case of litigation. One emblematic episode occurred in the second half of the twelfth century, when the inhabitants of Rosignano took their children to see the boundary stones with Castiglioncello. Having arrived at the place, they told the children the story of the procession held years before by Archbishop Villano to mark out the territory. They then began to hit the children, so that the latter would not forget either the location of the border or the story that they had just heard (which laid the foundations for the claims of the Rosignanesi people).<sup>17</sup>

With a claim made *palam et publice* (openly and publicly) all the better if accompanied by a ritual, the dispute could then continue along judicial channels. Here, the encounter—a potentially fruitful one for the local figures—took place between the ‘culture of practice’ and the city’s ‘juridical-notarial culture’. More and more often, from the end of the twelfth century, lords of castles, as well as communities and individual countrymen, turned to the courts of urban justice in the hope of finding a legitimate buttress for their ‘practices’.<sup>18</sup> To return to the example of Rosignano—although there are many others that could be cited—when the boundary dispute with the men of Castiglioncello came before the urban magistrates, the examination of the witnesses revealed the widespread recourse that both groups of actors had made to competing ‘possessory practices’, including confiscation of property, the exclusive exercise of hunting rights, etc.

The outcome of the trials was naturally variable, owing partly to the different abilities of the actors to translate the memory of the practices into a language consistent with that of law and procedure—a difficult operation without a good **(p.100)** lawyer.<sup>19</sup> And yet, for as long as the *Ancien Régime* lasted, this remained the most common path for individuals and communities who were determined to redefine the boundaries of their rights to follow.<sup>20</sup>

Notes:

(<sup>1</sup>) There is a lucid summary of the debate regarding communes and rural communities in Wickham, *Community and Clientele*, 1–6.

(<sup>2</sup>) Della Misericordia, *Divenire comunità*, 42.

(<sup>3</sup>) For Milanese territory, see Grillo, *Milano in età comunale*, 604 ff.

(<sup>4</sup>) See respectively Nobili, *Statuerunt quod Comune de Gromo*, and Provero, *L'Italia dei poteri locali*, 191–2.

(<sup>5</sup>) This was the case of Comabbio, a community subject to the temporal dominion of the Milanese abbey of Sant'Ambrogio, where in 1220 the abbot initiated an exchange with the community, represented by the *consul nobilium*, the *consul rusticorum* and the *deganus*. Noted by Chiappa Mauri, 'Nelle terre del monastero di Sant'Ambrogio', in particular 63–4.

(<sup>6</sup>) Regarding the *communia nobilium* cf. Grillo, *Milano in età comunale*, 616, which describes the cases of Cesano (1223), Cogliate (1240), and Albizzate (1240). For Bergamo cf. Nobili, 'Nel comune rurale del Duecento', 57 ff.

(<sup>7</sup>) The Tuscany area has been very well studied. There is a summary in Collavini, 'Signoria ed élites rurali'.

(<sup>8</sup>) Della Misericordia, *Divenire comunità*, 254–5.

(<sup>9</sup>) In 1233, the commune of Levate, in the Bergamo district, attempted to oppose the request for the entry *in vicinia* of the inhabitants of Monasterolo, who declared themselves to be the fourth part of the *universitas* of Levate. The matter came to the attention of the city court, which accepted the case of the men of Monasterolo, who insisted on participation proportional to their demographic weight ('secundum quod tangit et tangere debet de iure quarta parte comunis loci de Levate'). The episode is reconstructed by Nobili, *Appartenenze e delimitazioni*. Regarding practices of assembly, also id., 'Nel comune rurale del Duecento'. On certain Tuscan cases with well-documented sources: Delumeau, 'De l'assemblée précommunale au temps de conseils', 220 and Redon, 'Les assemblées communales en toscane méridionale', 250 ff.

(<sup>10</sup>) Grillo, *Milano in età comunale*, 617.

(<sup>11</sup>) Della Misericordia, *Divenire comunità*, 661 ff.

(<sup>12</sup>) For the Lombardy area: Grillo, 'Comuni urbani e poteri locali', 48 ff. A look at the whole area of the Po Valley in Varanini, 'L'organizzazione del distretto cittadino', 147 ff.

(<sup>13</sup>) For Bergamo, Cremona and Brescia, which around the middle of the thirteenth century promulgated a similar normative, see Menant, *Campagnes lombardes*, 513. The matter is broadly dealt with in Nobili, 'I contadi organizzati'. Also id., 'Appartenenze e delimitazioni', 44 ff., in particular with reference to the case of the Bergamo district. Bordone is also emphatic regarding the indefiniteness of the territories of the late medieval communities: Bordone, 'I confini della comunità'.

(<sup>14</sup>) A statute in Como (1335) expressly forbade the establishment of 'communities of communities.' But the establishment of such structures had already been discouraged by urban centres from the thirteenth century. Noted by Della Misericordia, *Divenire comunità*, 663–4.

(<sup>15</sup>) See with regard to this the cases studied by Provero, 'Una cultura dei confini', and also Bordone, 'Promiscuità territoriale e delimitazione del confine'. Guglielmotti also writes about the theme, *Ricerche sull'organizzazione del territorio*, 147 ff.; Nobili, 'Appartenenze e delimitazioni'. On a more theoretical level: Marchetti, *De iure finium*.

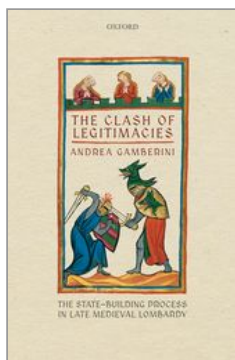
(<sup>16</sup>) Torre, 'Percorsi della pratica'. More recently, id., *Luoghi*. A similar approach in Wickham, *Courts and Conflict*.

(<sup>17</sup>) Ibid., 234 ff.

(<sup>18</sup>) Many examples in Provero, *La parola dei sudditi*, 159 ff.

(<sup>19</sup>) In this sense, Torre suggests considering the sources of justice as the 'moves' of political actors, rather than as texts that reflect principles of political culture. Torre, 'La produzione storica dei luoghi', 452. With a slightly different angle, Provero, *Le parole dei sudditi*, 303 ff.

(<sup>20</sup>) It is worth recalling here a famous and pioneering piece of research: Grendi, 'La pratica dei confini'. Apart from the studies by Angelo Torre mentioned in the previous note, see also: Stopani, *La production des frontières*; Tigrino, *Sudditi e confederati*; Giana, *Topografie dei diritti*.



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## New Scenarios, Old Questions

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### Abstract and Keywords

This chapter, beginning Part II, takes as its theme the advent of the regional states—new and broader political formations that replaced city-states from the middle of the fourteenth century. It looks briefly at the causes of a transformation that profoundly altered the balance of late medieval Italy and which ended with the introduction of other, different political cultures. Far from simplifying the political picture, the regional state absorbed but did not dissolve the many existing territorial bodies, resulting in a stratification of languages and ideas and a configuration of extreme tensions. The Milan Duchy is employed as a case study in order to investigate these phenomena analytically.

*Keywords:* Territorial state, duchy of Milan, political culture, urban lordship, Renaissance

**(p.104)** The opportunity to continue with the comparison between political cultures in the post-communal age suggests narrowing the focus of research to a more circumscribed field, reducing the scale from the Po Valley (with a glance, sometimes, as we have seen, at neighbouring Tuscany) to Visconti Lombardy alone. This is not to say that analogies and affinities cannot also be observed outside this political space: however, the success of the multiple-city Visconti



*signoria* and then the creation of a state with regional dimensions endowed this territorial context with significantly different characteristics from those observable in neighbouring structures.<sup>1</sup> Moreover, the attention paid by earlier scholarship to the theme of languages and political cultures has been somewhat uneven: stronger in some regions, much weaker in others, making it difficult to achieve a synthesis that covers the entire Peninsula in the last two centuries of the Middle Ages.

Starting from the first decades of the fourteenth century, two phenomena—conceptually distinct, although intertwined in practice—competed to complicate the already multifaceted panorama of the political cultures of late medieval Lombardy: the ‘lordly mutation’—as Andrea Zorzi vividly defines it—and the advent of the regional states.<sup>2</sup>

On the one hand, the transformation of lordly power in the city, which was now tending to flow beyond the perimeter of the communal institutions to superimpose itself upon them, paved the way for research into new forms of legitimation and consensus. This also brought with it original developments on the level of political and juridical thought. On the other, the creation, by the lords themselves (and also some city-republics, such as Venice or Florence), of a large, regional, institutional space, within which the regulating force of central power became more and more energetic over time, completely changed the rules of the political game.

Historians have effectively highlighted the constitutive dynamics of the regional or territorial states between the fourteenth and fifteenth centuries (the Duchy of Milan, the Venetian state, the states of Este, the papal state, the Florentine territorial state, etc.), which absorbed the individual city-states (and their surrounding areas) in order to turn them into the bricks with which to construct

the new state edifice. On the one hand, this latter phenomenon created opportunities for old and new local actors (from rural communities to towns, up to rural lords), who in the regional state often found an interlocutor interested in supporting their ambitions of greater autonomy from the city centre.<sup>3</sup> On the other, however, it produced an often difficult and conflicting coexistence of the political cultures of the various protagonists. The traditional problems of communication between the cities and territorial bodies of the countryside were now augmented by those with the political leaders of the regional states (princes such as the dukes of Milan or of dominant cities such as Venice or Florence). (p. 105)

This is not the place to look into the reasons that favoured the development of a *signoria* of regional dimensions such as the Visconti's—reasons that recent research has identified in different factors, ranging from its peace-making mission,<sup>4</sup> to its strong social bases (especially amongst the classes worst hit by the incipient economic crisis),<sup>5</sup> to the transformed geopolitical balance (which, following the Angevin expansion on the other side of the Alps, had made the fragility of the city-states evident when faced with a super-regional power)<sup>6</sup>. Let us dwell, rather, on the features of the new political formation.



Map II.1.2 The Duchy of Milan in 1402

The image of the early Renaissance state as an artwork 'à la Burckhardt', in which the prince plastically modelled social and territorial bodies as if they were (p.106) clay in the hands of an artist, has long since been abandoned.<sup>7</sup> Historians have taken into account the vitality of the political actors present in the territory, some of which, as will be seen below, were of a new constitution, such as the city *squadra* (a kind of sort of formalized faction), the confederated communities in the countryside, certain feudal powers, and so on—which were coordinated, but certainly not dissolved, by the action of the regional state.<sup>8</sup> It is, in fact, in this widespread political protagonism, in this galvanic pluralism, that it is possible to identify one of the distinctive features of Visconti Lombardy.<sup>9</sup>



The outcome of these political dynamics was a very complex state architecture, the result due rather to phenomena of accumulation than those of selection and simplification. The point worth highlighting here is that the stratification of institutional structures produced by the state-building process corresponded to a specular process in the sedimentation of political cultures. Languages, arguments, and idealities that developed between the eleventh and thirteenth centuries maintained all their force, in particular in social and territorial contexts, while new ones were added. The consequences are easy to imagine: in spite of the attempt by the regional state to impose its original project of political coexistence, the reaction of the social and territorial bodies (even the most recent ones) was a sharp one. It had the effect of amplifying the debate on the legitimacy of power and dividing it into a wide variety of positions, rooted once again in cultural hinterlands that were often very different from one another.

Notes:

(<sup>1</sup>) On these aspects: Gamberini, *Introduction. Between Continuity and Discontinuity*, in particular 9 ff.

(<sup>2</sup>) On the 'mutazione signorile' see Zorzi, *Le signorie cittadine in Italia*, 108.

(<sup>3</sup>) See the classic studies by Chittolini, *La formazione dello stato regionale* and id., *Città, comunità e feudi*. More recently, *The Italian Renaissance State*.

(<sup>4</sup>) This widespread aspiration amongst the Lombards is testified to by the famous report sent to the pope by the legates Bernard Gui and Bertrand de la Tour in 1317. The transcription of the report is in Riezler, *Vatikanische Akten*, 36 ff. In the report, the two Dominicans reported that, in the opinion of the many lay people and ecclesiastics interviewed, Lombardy could only find peace under a local dynasty (not foreign, in other words) that was capable of being loved through its good governance. The text is also referred to and commented upon by Somaini, *Processi costitutivi*, 731–2.

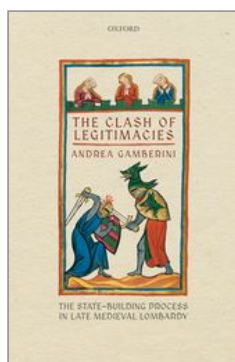
(<sup>5</sup>) Grillo, *Milano Guelfa*.

(<sup>6</sup>) *Gli Angiò nell'Italia Nord-occidentale*. It is worth pointing out that the subject of the French threat came back once again at the end of the fourteenth century, as witnessed by the exchange of accusations between Florence and Milan on the occasion of the famous literary dispute between Coluccio Salutati and Antonio Loschi. See the edition in Baldassarri, *La vipera e il giglio*.

(<sup>7</sup>) Burckhardt, *The Civilization*. On the Burckhardtian vision of the Renaissance in Italy, see: Brucker, 'The Italian Renaissance', 21–38.

(<sup>8</sup>) Gamberini and Lazzarini, *Introduction*.

(<sup>9</sup>) On political pluralism as a characteristic feature of Visconti Sforza Lombardy, cf. Gamberini, Introduction. 'Between Continuity and Discontinuity', 1–18.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Rise of Visconti Power

Between Legitimation from Below and a Longing for Majesty

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### Abstract and Keywords

This chapter focuses on the affirmation of a strong lordly government in the early decades of the fourteenth century. The arrival of Henry VII and the conferring of the imperial vicariate signified a watershed in the Visconti world, which saw the lord detached, not without some initial hesitation, from bottom-up forms of legitimacy to adhere to a royal conception of authority, one that was not always coherent to itself. Its definition, from time to time, involved substantial investment in terms of munificence, the adoption of a true regimen regale, expensive marriage arrangements with the ruling houses of the time, the recovery of the tradition of the Lombard kings of Pavia and even the employment of a lexicon relating to divine providence, which made it possible to suggest links with an even higher level of majesty.

*Keywords:* Visconti, Sforza, Duchy of Milan, imperial vicariate, urban lordship

In the spring of 1294, Adolf of Nassau, King of the Romans, granted to Matteo Visconti the title of imperial vicar of Milan and Lombardy. As mentioned above, the investiture was the seal on the Visconti's policy of expansion. Their influence could now be felt beyond the walls of Milan, in Novara, Vercelli, Casale, and Como.<sup>1</sup> It was a concession that Matteo was extremely keen to procure, and it allowed him to reinforce his pro-imperial militancy in the most prestigious way. It does not seem, however, to have been interpreted by Visconti himself as a 'suggestion' to reshape the communal apparatus from an external and superior position. Even in the following years, he continued to seek political legitimacy,

essentially in his capacity as ‘captain of the *Popolo*’, an office that existed in almost all the aforementioned cities. When constitutional amendments were introduced in 1300 to strengthen Matteo’s role in Milan, this occurred not through the recognition of a new role for Visconti, but through the utter subordination of the commune to the organisms of the *Popolo*. Most notably, this involved the transfer of the ‘faculty of regulating the republic by their will’ from the General Council to the captain of the *Popolo*, the judge of the council of Sant’Ambrogio, and the *Anziani* (the Elders).<sup>2</sup>

After just a few years, the situation changed radically. Matteo’s request for confirmation of the vicariate to Henry VII, after the fall of the della Torre regime in Milan (1302–10), seemed to have a very different purpose. The pressure that Guido della Torre (especially since 1307) had exerted on the communal institutions and the government practices that they had been able to create indicated the existence of a political framework that was far from unfavourable to more decisive processes of concentration of power, perhaps even through new institutional experimentation.

With an eye on this possibility, too, in July 1311 Matteo obtained the vicarial title and for two years it represented his only source of legitimacy in the government of Milan. Only on Henry’s death did Visconti decide to seek the concession of the *signoria* from the General Council of the commune, but without renouncing the title of vicar—a position that was contested by Pope John XXII, who considered the Empire vacant and the vicars appointed by Henry VII illegitimate.<sup>3</sup>

**(p.108)** At this point, however, there was no time to waste, and the *dominus* began to make profound changes in the communal structure. First, he altered the composition of the General Council which would now no longer be freely elected by the citizens: members would instead be nominated by the *signore*.<sup>4</sup>

From the Milan point of view, Zorzi’s idea regarding the ‘lordly mutation’, in other words, the changes in power brought about by the vicarial concessions granted by Henry VII, seems, therefore, to find ample confirmation. Moreover, such concessions were granted not only to Visconti, but also to Cangrande and Alboino della Scala in Verona, Rizzardo da Camino in Treviso, Passerino Bonacolsi in Mantua, Giberto da Correggio in Reggio, and Filippo d’Acaia in Vercelli, Novara, and Pavia.<sup>5</sup> If the policy launched by Henry VII on the one hand made it possible for the emperor to establish a direct link with those who were now controlling the Italian cities, on the other, it meant the opening up of extraordinary opportunities for the recipients of the imperial investiture. These were not merely legitimized *ex post* but endowed with a new status in terms of the exercise of power, allowing them to participate in the imperial sovereignty and therefore to establish their own prerogatives of government on a basis other than that of communal tradition.<sup>6</sup>

The consequences, in terms of renewal of political discourse, were remarkable. Introducing the enormous possibilities associated with the exploitation of royal mandates (the exercise of *plenitudo potestatis*, the *potestas condendi leges*, the granting of pardons, etc.), in just a few years the Visconti embarked upon a path—though certainly not a continuous nor a linear one—to extend the boundaries of their participation in the royal sphere. It was a path, it should be noted, in which self-representation played a decisive role and was sometimes deliberately a contrast to the emperor's concessions. The latter could be an unhelpful or hostile figure in certain difficult situations, and was therefore not always fully involved in the process of consolidating the *signoria*. It is a phenomenon that was already visible with Azzone (1329–39), the founder of a domain on a regional scale: settling in Milan thanks to a vicarial post from Louis of Bavaria, 'he soon learnt to be wary of the short-lived imperial, papal, and royal vicariates.'<sup>7</sup>

On the one hand, as one by one other Lombardy communities and cities submitted to his authority (the order being: Bergamo, Cremona, Como, Lodi, Vercelli, Piacenza, Brescia, Crema, Borgo San Donnino, Biandrate) he ceased to call himself imperial vicar and assumed the title of *dominus generalis* (lord, in other words, of the various parties that made up every community that 'freely' submitted to Visconti). In this context, the appropriation of the symbols and rituals of civic religiosity (such as the cult of Sant'Ambrogio, the patron saint of Milan), even though **(p.109)** reinterpreted with an eye to glorifying the *signoria*, indicated a desire not to break with a communal tradition, which was still perceived as a legitimizing factor.<sup>8</sup>

On the other hand, however, Azzone made it clear that this return to the *dominium politicum* certainly did not mean a renunciation of the *dominium regale*. If the statutes of Piacenza, reformed by Azzone in 1336, alluded—though in an unfinished form—to the lordly *maiestas* and its divine derivation, those of Como, revised in 1335, are more revealing. Here, the power of the lord is defined as *paterna auctoritas*, an expression in which it is difficult not to see a reference to a famous passage in Aristotle's *Politics* and, through this, to royalty. Aristotle says that 'the authority that a father exercises over the children is that of a king: in fact, the father's authority is based on affection and maturity of age, and this is the characteristic of royal authority.'<sup>9</sup>

Azzone's successors, Luchino and Giovanni, while similarly cautious with regard to the institution of the vicariate, were equally determined to draw on the resources associated with the *maiestas*. Although in 1341 they had received the apostolic vicariate *vacante imperio*, they were careful to avoid asking confirmation from the newly elected King Charles IV of Bohemia in 1346, preferring to invest in areas with a strong symbolic significance. Following the line of their predecessor, they introduced explicit statements of principle into the statutes of certain cities: as in the Cremona compilation of 1339, in which the

will of the two lords is represented as *lex animata in terris* (living law on earth) this being an attribute which both juridical tradition (the *Novellae* of Justinian) and the most recent philosophical ideas, e.g. Egidio Romano's (Aegidius Romanus) *De regimine principum*, reserved exclusively to the *princeps*.<sup>10</sup>

Visconti legislation therefore employed conceptual materials that were widely disseminated to develop a political discourse that was original and, above all, rich with implications. Since the *regimen regale* had—at least in Egidio Romano's interpretation—a natural origin, it followed that it was hereditary in character, and no longer to be mediated by the people of the Visconti *signoria* in Cremona. In order for there to be no doubt about it, the statute was careful to add that Giovanni and Luchino were 'domini generales' of the city 'sub protectione et titulo naturalis domini'. These modes of self-representation of Visconti authority, in particular the emphasis on 'natural regime'—a functional element in the dynasticization of power—were also present with successors, who did not hesitate to trace back the **(p.110)** majestic traits of the *dominus* to his participation in the same sphere as royalty. The chronicler Bonicontro Morigia, for example, attributes a 'modum regis' (the attitude of a king) to Azzone, due to the splendour of his court and his frequentation of princely circles.<sup>11</sup> Display of magnificence was associated with the name of this lord for a long time, and far exceeded his actual merits (such as the case of the legend regarding the new city wall that Azzone had proposed to build).<sup>12</sup>

But Galvano Fiamma held similar beliefs, declaring in one chronicle that he could see in the Visconti many of the qualities for which they 'should be called kings, not lords',<sup>13</sup> and, in others, succeeding in reconstructing the royal ancestry of the dynasty.<sup>14</sup>

In this encomiastic polyphony, at the end of the 1340s there stands out the voice of one of the most illustrious poets of the time, Petrarch, who was the guest of the lords of Milan for many years. And the leitmotif is always the same: according to the poet laureate, all that Luchino lacks to reign is the name of king itself ('regnum preter regium nomen nihil desit', *Fam* VII, 15, 3). As for Galeazzo II, who, with his brothers Matteo and Bernabò, succeeded Luchino and Giovanni after 1354, he is the *Ligurum regnator*: distinguished by his magnanimity, constancy, charity, vigilance, liberality, and moderation, he possesses all the qualities necessary in one who is born to reign ('que id necessaria sunt regnantibus', *Sen* VIII, 3, 24-30).<sup>15</sup>

However, Galeazzo II did more than just demonstrate a ruler's generic virtues: by transferring his residence to Pavia, the ancient capital of the Lombards, and then of the Italic kingdom, he also intended to physically appropriate an illustrious legitimating tradition.<sup>16</sup>

The imperial form of royalty was not the only one that Visconti tried to draw upon: the grandiose marriage policy pursued by Galeazzo II and his brother Bernabò in the second half of the fourteenth century made it possible for the House to link itself to the main European dynasties, from the Valois to the Plantagenets. Developments were immediately communicated to the subjects: cities began to proliferate not only with heraldry showing vipers quartered with eagles, but also with fleurs-de-lis, to publicly signify the new status of the lord. France and England, in particular, seem to have been a strong cultural model for the lords of Milan, especially in the age of Gian Galeazzo. This was intensified by the close ties of marriage between Visconti and Isabella of Valois and of his daughter Valentina with Louis Orleans, and then between Violante—Gian Galeazzo's sister—and the **(p.111)** Duke of Clarence. New royal customs began to make an appearance: such as the dissection of the mortal remains of the ruler or the ritual of distributing coins to the people once a year, the sum depending on the number of years of the reign (a practice that, in a form that has only partly changed, is still observed by the British monarchy today).<sup>17</sup>

Imperial and Anglo-French royalty were not, however, the only sources to which pro-Visconti circles looked. An analysis of the decrees promulgated by the lords of Milan has made it possible to identify another divergence carried out by Galeazzo II (1354–78), guardian and interpreter not only of the imperial, but also of the divine, *maiestas*. The edict of 8 October, 1370 established a parallel between the betrayal of the lords of Milan and the betrayal of God, for which the punishment imposed was the same (thus suggesting a link between divine majesty and that of the Visconti). The decree against blasphemy of 10 June 1378 expressed this link in an even more explicit manner: to swear against the Most High—it was now clearly stated—was also to offend those who drew their authority from Him and represented Him on earth. As Federica Cengarle says: 'Visconti is now no longer only protector of the earthly *maiestas* as vicar and lieutenant of the Empire, but also of a *maiestas* higher than that of the imperial, as the prince and lieutenant of God.'<sup>18</sup>

In line with these premises, then, the refusal by the Valtellina inhabitants to pay the *salarium domini* is presented in the documents of the Visconti chancellery as an act of vainglory, similar to that committed by those who, their self-esteem grown to such an extent, deny their own dependence on the Almighty.<sup>19</sup>

In different forms, but certainly no less effectively, we find this need to associate earthly and divine majesty also in Bernabò (1354–85), brother of Galeazzo II and *co-signore* of Milan. He, too, was initially invested with the title of vicariate, and then subsequently divested of it, without caring to claim it again thereafter. He had, instead, decided to take a very different path. This is an aspect that in some way his detractors had already pointed out, expressly accusing him of playing the part of being God's representative on earth. It is an accusation found in one of the many excommunication bulls issued by the pope, which tells the story of

the Archbishop of Milan, Roberto Visconti. The latter, refusing to support Bernabò's request in the matter of benefices, was reproached with the following words: 'Do you not know, rogue, that I am Pope and Emperor and Lord in all my lands?'<sup>20</sup>

Similar tones are also to be found in the accusation directed by the young Gian Galeazzo at his uncle after his capture in 1385, the charge being that, turning to **(p.112)** some confederates, Bernabò had said, 'perhaps you do not recognize that I am God on Earth?'<sup>21</sup>

While it is, of course, only appropriate to treat with caution what is reported by sources specially designed to discredit Bernabò, it should also be noted that it was the Milan lord himself who consciously cultivated such an image. There is the famous story regarding his equestrian monument, which he wanted to place in the chapel of the lordly palace, in the position above the main altar, 'in the place where the consecrated body of Christ used to be placed or situated', as a shocked traveller remarked.<sup>22</sup>

This lofty conception of lordship was naturally reflected in the relationship with his subjects. This was marked by a very strong asymmetry, to the extent that an underlying climate of fear was created. Not that this was a completely new sentiment: the Visconti had resorted to intimidation at least since the 1330s and 1340s, **(p.113)** when Azzone had promoted the construction of castles and fortified urban *ricetti* in subject cities, a kind of perpetual warning to the *cives*.<sup>23</sup> Now, however, there was something more: the punishments that Bernabò inflicted, though cruel and spectacular—and therefore more threatening than ever—seemed to be inspired by a desire for justice that was recognized by both contemporary chronicle and narrative writers (who were profoundly affected by the fascination of the Visconti). These are aspects that are worth reflecting on. On the one hand, Bernabò's actions seem to theorize, a long time before Machiavelli, the necessity for a prince to be more feared than loved. But, on the other, it was a fear which, just like the *timor Dei* (fear of God) which he seemed concerned to arouse on a large scale, appeared, at least on the level of an ideal construction, to be firmly linked to a principle of retributive justice. It was not, therefore, a generic fear of the lord, but rather an awareness of the ineluctable nature of his punishment whenever the law was violated.<sup>24</sup>



A further, and this time decisive, step towards the acquisition of stable royal characteristics was accomplished at the end of the century by Gian Galeazzo, following on from the problems posed by the removal of his uncle Bernabò, arrested in 1385 and poisoned only a few months later. How was it possible to justify the violent interruption of that *naturale dominium*, the construction of which his predecessors had fought for with such determination? Once again, an analysis of the decrees issued by the *signore* helps us to reconstruct the ideal

scope of his political action. There is the clear concern to represent the *signoria* as a service to the people: as in an edict of 18 February, 1388, which states: ‘for this was and is always our principal and universal intention [that is] to attend with great zeal to the advantages and interests of our subjects ...’<sup>25</sup> In the years in which the opening of the Great Schism seemed to revive the debate regarding the source of public power, linked to public welfare (*utilitas publica*), Gian Galeazzo chose this very framework to delimit the terrain on which to build his legitimation. At the same time, he wished to delegitimize his uncle, who was represented as a tyrant who did not act in the collective interest.<sup>26</sup>

In spite of the chancellery’s best propaganda efforts, more than one doubt remained at court regarding the rights of Gian Galeazzo in the land that had been his uncle’s. Because while it was true that Bernabò did not care to renew the vicariate, it was equally true that the vicarial concession obtained by Gian Galeazzo in 1380 openly recognized the rights of Bernabò. In short, a title was required that juridically acknowledged the breach made by the coup d’état of 1385 and at the same time furnished with suitable rank the holder of a dominion both large and in energetic expansion.

**(p.114)** Negotiations having failed with the popes both of Rome and of Avignon—the contents of which we are informed of by the Florentine ambassadors, who expressly refer to Visconti’s ‘royal ambitions’—they were then redirected towards the King of the Romans, Wenceslas of Bohemia, who in 1395–6 issued two famous charters of feudal investiture. Gian Galeazzo, elevated to the rank of duke with rights of succession, was now granted the Duchy of Milan (which coincided with the *contado* of the Ambrosian *civitas*) and the duchies of the other



II.2.1 Bernabò Visconti’s funeral monument, by Bonino da Campione (Milan, Castello Sforzesco, Civiche raccolte d’arte)

cities in his dominion, listed in detail. The imperial diploma that established the Lombard duchy in 1397 was probably false, but even so no less important to the Visconti ambitions. Faced with concessions that gave new foundations to Gian Galeazzo's power—elevated to the rank of Prince of the Empire and definitively released from the need to seek the conferral of dominion by civic councils—but which also certified the composite nature of his domain, composed of a plurality of cities individually linked to the ruler, the Visconti chancellery produced a document that was far more appropriate to the expectations of the *dominus*.<sup>27</sup>

No different from his predecessors, Gian Galeazzo, too, tried to present his power in the context of a more direct relationship with God ('entrusted by God'). Filippo Maria Visconti was very explicit in this sense (1412–47), reiterating that 'Almighty God has given us the power to govern, has defined every age-old principality and power as dependent upon the supreme and only heavenly Majesty.'<sup>28</sup>

With Filippo Maria the ideal elaboration of princely power was now about to break the last taboo: the progressive attenuation of imperial mediation and the direct appeal to divine majesty, of which the *princeps* was the image ('imago divine maiestatis'). Thus, Visconti could now depict himself, and act, as a monarch, as one of his decrees expressly states.<sup>29</sup>

It was a high point that was never again to be reached during the Sforza era, when the problems of the legitimacy of a new and foreign dynasty, its ducal ambitions not to be recognized by the emperor until 1494, led the 'dukes'—as they considered themselves to be and as they represented themselves—to follow some of the paths already taken by the Visconti in the fourteenth century. They drew on the models of the prince as a peacemaker and as a patron of the arts, inspired by a conception involving the imitation of Christ and legitimized by kinship with illustrious royal lineages.<sup>30</sup>

If anything was new, it was one of the channels now used for political communication, and that was humanist historiography. This stood out clearly from the previous chronicle tradition, not only because of the style and language, but above **(p.115)** all because of the content: this reflected the predominant attention given to the present, the object, and at the same time, the recipient, of the narrative.

The 'official' character of much of this production—such as *De vita rebusque gestis Francisci Sfortiae Vicecomitis Mediolanensium ducis ill. mi* by Lodrisio Crivelli or *De rebus gestis Francisci Sortiae commentarii* by Giovanni Simonetta—is confirmed by the supervision of the operation, which can be traced back to the chancellery of Cicco Simonetta. It was a genre, however, that continued to enjoy great success even after the powerful secretary was no longer on the scene. This is illustrated by the work of Donato Bossi, commissioned by the Moro

to reinterpret the history of the dynasty from a communal and pro-aristocratic perspective, in an extreme attempt to reconcile with the Ambrosian elites who had already expressed their intolerance by killing the Duke Galeazzo Maria in 1476.<sup>31</sup>

Notes:

(<sup>1</sup>) Grillo, *Milano Guelfa*, 36–7.

(<sup>2</sup>) Ibid, 39.

(<sup>3</sup>) An aspect described well by Somaini, 'Processi costitutivi, dinamiche politiche e strutture istituzionali', 710–15.

(<sup>4</sup>) On this reform, cf. Cognasso, 'Istituzioni comunali e signorili', 456–7.

(<sup>5</sup>) Zorzi, 'Ripensando i vicariati imperiali e apostolici'.

(<sup>6</sup>) On these aspects, the best references are still Somaini, 'Processi costitutivi', 712 ff., and Zorzi, 'Ripensando i vicariati imperiali e apostolici'.

(<sup>7</sup>) Cengarle, *Lesa maestà*, 60. Azzone received the imperial vicariate twice, once from the pope, and once from King John of Bohemia. Also eadem, 'La signoria di Azzone Visconti'.

(<sup>8</sup>) A sizeable literature on the subject has developed over the years. On the appropriation of the figure of Ambrose and the deployment of the saint in a military direction, to which Azzone linked the victory over his rebellious relative Lodrisio at Parabiago, see Cariboni, 'I Visconti e la nascita del culto di sant'Ambrogio della Vittoria'; also id., 'L'iconografia ambrosiana'. On the lordly appropriation of communal ritual: Chittolini, 'Civic Religion and the Countryside'. Regarding the Visconti's promotion of the cult of the Virgin, much preferred to that of Sant'Ambrogio, which was perceived as communalistic: Cengarle, 'I Visconti e il culto della Vergine'. The restoration of the figure of Sant'Ambrogio, once again freighted with civic and civil values, took place in 1447, when the Ambrosian Republic was established in Milan after the death of Filippo Maria. Boucheron, 'Ambrosian Defenders'.

(<sup>9</sup>) Cengarle, *Lesa maestà*, 64–5. 'The relationship of father to sons is regal in type since a father's first care is for his children's welfare' (*Eth. Nich.*, 8.11.6).

(<sup>10</sup>) Cengarle, *Lesa maestà*, 78–98.

(<sup>11</sup>) There is a detailed analysis in Cengarle, *Lesa maestà*, 63 ff., 86 ff.

(<sup>12</sup>) Regarding Azzone's public works (on the palace, the city gates, the cathedral, etc.) see Boucheron, 'De l'urbanisme communal', 51–4; also Cengarle,

'I gruppi scultorei delle porte milanesi'. In general, on the significance of these works, Boucheron, 'L'architettura come linguaggio politico'.

(<sup>13</sup>) 'Non iam capitanei, sed reges merito nominarentur'. Fiamma, *De rebus gestis ab Azone, Luchino et Johanne Vicecomitibus*, in particular col. 1031. On Fiamma, see Chiesa, 'Galvano Fiamma fra storiografia e letteratura'.

(<sup>14</sup>) In the *Politia novella* and the *Chronicon Maius*. Referring to which, Malanca, *Testi composti per l'incoronazione ducale e per i funerali di Gian Galeazzo*, 245.

(<sup>15</sup>) The relationship between the Visconti house and Petrarch has been extensively studied. See, for instance, Novati, 'Il Petrarca e i Visconti'; Wilkins, *Petrarch's Eight Years in Milan*; Dotti, *Petrarca a Milano*; Gargan, 'La cultura umanistica a Pavia'; Fenzi, 'Ancora sulla scelta filo-viscontea di Petrarca'.

(<sup>16</sup>) Majocchi, *Pavia città regia*, 189 ff.

(<sup>17</sup>) On the ritual of the dissection of the body and its origins, cf. Majocchi, '“Non iam capitanei, sed reges nominarentur”', 202, following on from Hallam, 'Royal Burial'. The ritual of the distribution of coins is cited in the funeral sermon of Pietro da Castelletto, edited by Malanca, *Testi composti per l'incoronazione ducale e per i funerali di Gian Galeazzo*, 169, 204: 'preter quas manu sua faciebat quinquagesies in anno, tot pecchionos dando sigillatim tot pauperibus quot annos habebat.' On the distribution of coins, one for every year of the reign, by the British monarch, see Robinson, *The Royal Maundy*.

(<sup>18</sup>) Cengarle, 'Tra maiestas Imperii e maiestas Domini', 262.

(<sup>19</sup>) Gamberini, 'Aequalitas, fidelitas, amicitia', 436.

(<sup>20</sup>) 'Nescis pultrone quod ego sum papa, ac imperator et dominus in omnibus terris meis?' Biscaro, 'Le relazioni dei Visconti con la Chiesa', 181.

(<sup>21</sup>) 'Annales Mediolanenses', col. 794.

(<sup>22</sup>) 'In loco ubi Corpus Christi sacratum consuevit locari vel reponi.' Definitely too much for one anonymous transalpine traveller, who dismissed this attempt to take Christ's place as *abominabile idolum*. Cf. Cognasso, 'Ricerche per la storia dello stato visconteo', 122. See also Vergani, *L'arca di Bernabò Visconti*.

(<sup>23</sup>) Boucheron, *Le pouvoir de bâtir*, 199 ff. Covini, 'Cittadelle, recinti fortificati, piazze munite'. There is a recent discussion of the theme in *Marquer la ville*.

(<sup>24</sup>) Gamberini, 'The Emotions of the State', 201 ff. There is an interesting parallel between *timor Dei* and the fear generated by the severity of the prince's laws in a decree of Filippo Maria Visconti in 1423. Cengarle, *Lesa maestà*, 141. More in general on this topic: Wootton, 'The Fear of God'.

(<sup>25</sup>) 'Quia nostra semper hec fuit et est precipua et universalis intentio nostrorum subditorum utilitates et commoda summo studio procurare ... '. For these aspects, Cengarle, *Lesà maestà*, 133.

(<sup>26</sup>) Ibid. Also Gamberini, 'Da "orgogliosi tiranni" a "tyrannidis domitores" '.

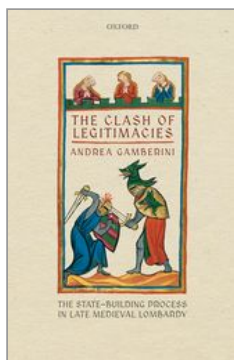
(<sup>27</sup>) Black, 'Giangaleazzo Visconti and the Ducal Title'; eadem, 'The Emergence of the Duchy of Milan'; Bueno de Mesquita, *Giangaleazzo Visconti*, 171.

(<sup>28</sup>) 'Deus omnipotens nobis dominandi tribuit facultatem, principatus omnis secularisque potestas a suprema et sola celeste mayestate dependentes'. Cengarle, *Lesà maestà*, 126-7.

(<sup>29</sup>) Ibid., 129.

(<sup>30</sup>) On the image of Francesco Sforza as a promoter of peace, see the following note. On the relationship with the arts, something always sought after but which became a mark of government with the Moro, see Welch, *Art and Authority*. On the evocation of the sphere of the sacred, Lubkin, *A Renaissance Court*, 71 ff.

(<sup>31</sup>) For all these aspects, the reference is Ianziti, *Humanistic Historiography*. On the divergence between the Milan aristocracies and the ducal dynasty in the second half of the fifteenth century, see Chittolini, *Città, comunità e feudi*, 167 ff.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Ideology of the Regional State

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### Abstract and Keywords

This chapter analyses the way in which the Visconti justified their seignury and their expansionist policies on an ethical and political level. They attempted to set themselves up as paladins in the war against tyranny—now seen not in its traditional sense as one of the degenerate forms of government, but as a division of the political body, a prime cause of war and an obstacle to peace. Through this intrepid conceptual twist, pro-Visconti circles were thus notably successful in deflecting any delegitimizing accusation away from their masters, while at the same time elaborating an ethico-political justification for their expansionism: a first glimpse, here, of the ideological foundations of the regional state.

*Keywords:* lordship, tyranny, authority, emperor, power

The formation of a powerful lordly government and the expansionist policy pursued with great determination since Azzone's times meant that the Visconti had to respond to a repeated accusation from their detractors: that they were tyrants and enemies of peace.

Tyranny was a concept that, at the beginning of the fourteenth century, was clear at a theoretical level, thanks above all to the legacy of Aristotelian-Thomistic thought, but far less so in practice. Matching abstract categories derived from philosophy with political practice, now dominated by many and various forms of personal government, was in fact a difficult task. Even accepting the contribution of Thomas Aquinas, who extended the definition of tyranny to all degenerate forms of government (not only corruption of the monarchy, according to the original Aristotelian formulation), the picture

remained confused. Between a high level of good government and a high level of bad government, there existed a large grey area. This was clearly perceived by chroniclers who, faced with the impossibility of univocally classifying this or that lord, took refuge in oxymorons—a combination, in other words, of contradictory features. So, for example, Gerardo da Camino, lord of Treviso, is presented as ‘tyrant most equitable and civil and quite acceptable’ (‘tyrannus equissimus et civilis ac tolerabilis satis’), while Lalle Camponeschi from l’Aquila is defined as ‘easygoing, popular friendly tyrant’ (‘dimestico popolare compagnevole tiranno’). Other examples could easily be cited.<sup>1</sup>

A turning point in the debate on tyranny came with the progressive polarization of the political picture in the mid-fourteenth century. The expansionism of the Visconti *signoria*—now extended as far as Genoa, Bologna, and part of the Romagna—not only favoured the birth of a common front between the major city-states of central-northern Italy (starting with Florence, Siena, and Perugia),<sup>2</sup> but also provoked an enrichment in the ideological motives behind the dispute. It was at this stage that Florence built its own political identity, based on ‘a sort of identification, stronger than in the past, between Florence itself, Guelphism and Republicanism’.<sup>3</sup>

**(p.117)** While the awkward events of the lordly past were conveniently removed from the collective memory of the city on the river Arno, a redefinition began to take place with reference to the content—until then rather vague—of the ideology of the *Partes*, above all that of the Guelphs, which was associated with the idea of *libertas*, in the sense of independence from a lord.<sup>4</sup> The Florentine chronicler, Matteo Villani, was quite explicit about the matter, stating that ‘the Guelph Party is the foundation and strong and stable rock of the freedom of Italy and is opposed to all tyrants, so that should some Guelph become a tyrant, then they had better also become a Ghibelline.’<sup>5</sup>

As part of this reformulation of the party ideals, the terms ‘tyrant’ and ‘tyrannical’ also ended up taking on new meanings, becoming ‘functional concepts for a political program that was anti-*signorile* and specifically anti-Visconti’.<sup>6</sup> In the words of the Florentines, in fact, the Guelph/Republican position found opposition not in Ghibellinism/Lordship, but rather in Ghibellinism/Tyranny, as if to underline the intrinsically tyrannical nature of the *signoria*.

Faced with the renewed wave of accusations from the papacy and the Guelph cities, the lords of Milan were not slow in responding. On the one hand, they continued to maintain the positive value of the *signoria*, seen above all as a bringer of justice and peace, according to an ideal already present in the revisions of the statutes in some subject cities.<sup>7</sup> This was echoed by Petrarch (who defined Archbishop Giovanni Visconti as *amator pacis*, Sen. VIII, 3, 24–30) and ultimately culminated in the real manifesto that is the *Invectiva in*

*Florentinos* (1401). Here, the chancellor and humanist Antonio Loschi exalted the principality as the only true guarantor of peace and order, while the liberty flaunted by the Florentines was denounced for its vacuous and hypocritical nature.<sup>8</sup>

On the other hand, the Visconti's reply also contained an ardent attempt at the resignification of the term *tyrannus*, involving the restoration of one the word's original meanings—the non-evaluative connotation of king (or ruler). This was something the Middle Ages knew well, thanks above all to the mediation of Isidore of Seville.<sup>9</sup> The experiment was entrusted to the pen of the jurist and literary figure **(p.118)** Gabrio Zamorei, who, in his epitaph for Archbishop Giovanni (who died in 1354), openly described the prelate as 'magnusque potensque tyrampnus'.<sup>10</sup>

A few years later, the Visconti had to acknowledge that the attempt had failed. The Milanese propaganda probably had its wings trimmed by the circulation of one of the most famous treatises by Bartolo da Sassoferrato, *De tyranno*, which made a decisive contribution to the definition of tyranny. Abandoning philosophical-political terrain to reflect upon law, Bartolo was able to accurately typify the various cases of tyranny, thus offering new patterns of analysis.<sup>11</sup>

Faced with these developments, which endowed the word 'tyrant' with an irreversibly negative significance, the Visconti opted for a radical change of strategy. Setting aside dangerous word games, they tried to appropriate the anti-tyranny motif for themselves, in the belief that they could not leave the leadership, in the struggle against what everyone saw as the political emergency of the moment, to the Florentines and their allies.

This was already clear from the statutes of Parma in 1347, where the Visconti government's providential function was associated with its ability to employ justice and good laws to bring respite to a city 'contaminated' by tyrants and factional conflict.<sup>12</sup> Just a few years later, the submission of Genoa to Archbishop Giovanni Visconti (1353) was presented by Petrarch as the solution adopted by the Genoese people in order to flee tyranny (*Fam.* XVII, 4).

However, it was only in the years of Gian Galeazzo (1385–1402) that the anti-tyranny theme became the nucleus around which a new and original political discourse was developed. The very first steps of this ideal elaboration were already evident in the well-orchestrated campaign of information organized by Gian Galeazzo to justify Bernabò's arrest. In the face of the gravity of the accusations made against the latter, even the Florentine chancellor Coluccio Salutati was forced to recognize that Gian Galeazzo 'brought down and destroyed the great tyranny of his uncle, then that he was a very just and glorious triumpher over the tyrant, and finally, the enemy of tyranny'.<sup>13</sup>



At this point, envisaging the enormous legitimizing potential of the anti-tyranny theme, poets and literary figures close to Gian Galeazzo begin to celebrate the new Visconti conquests as victories over despotism. One of these, Francesco di Vannozzo, in some sonnets of 1387, imagined that, following Verona and Vicenza—two cities that had just come under Gian Galeazzo's control—the other cities of Italy, too, would throw themselves into the lord of Milan's arms, 'so that no tyrant there shall ever wreck them.'<sup>14</sup>

An analysis of these lines immediately reveals the leap made by pro-Visconti circles in the thematization of the struggle against tyranny. What is now hoped for (**p.119**) is no longer simply reparative action against bad government (i.e. tyranny) in individual cities, but a broader intervention aimed at creating an extended state structure, where the divided parts of Italy can find peace under the crown of Gian Galeazzo, the new Messiah.<sup>15</sup>

The same ideas are echoed in the poem *Imperiose comes, secli nova gloria nostri*, in which the aforementioned Loschi imagines that it is Italy herself, devoured by her children—cruel, flesh-ripping tyrants—that cries out for the peace-bringing war of Gian Galeazzo.<sup>16</sup>

Given the importance of the theme, it is not surprising that it also forms the basis chosen for the epitaph composed, again by Loschi, for Gian Galeazzo. Here, he is presented as an envoy sent down from Heaven to restore the Golden Age—the true topos of the pro-Visconti literature of the period—and rid the people of their pernicious tyrants.<sup>17</sup>

If in these, and other, texts it is Visconti's enemies—from the Scaligeri to Florence—who are accused of tyranny, in another small group of works tyranny is instead related not to a single city government but to a particular condition of the political framework. Through a decisive conceptual twist, aimed at giving even more explicit support to the Visconti's territorial ambitions, tyranny is now allusively identified in the fragmentation of the political community—something in which, simply by virtue of their very existence, both individual lords and city-states are de facto implicated. The argumentation is still elliptical, the nexus suggested rather than explicit, yet the thesis is recognizable and the harbinger of further developments.<sup>18</sup> Taking shape through the rebraiding of the many different threads of Visconti propaganda—the Messianic regality of the House, the peace-bringing vocation of the *signoria*, the struggle against tyranny—was in fact a lucid and ambitious discourse, one that not even the sudden death of Gian Galeazzo could cancel. Certainly, the risk that the duke's disappearance would herald the return of tyranny—in the words of Uberto Decembrio—proved to be a substantial one.<sup>19</sup> In the era of the very young Giovanni Maria (1402–12), the duchy split into a multitude of domains (those of Facino Cane, Pandolfo Malatesta, Ottobono Terzi, etc., all *condottieri* who had served Gian Galeazzo), but without this leading to the end of the ideology of the territorial state. Kept

alive in pro-duchy circles, it was vigorously taken up in the works of the Augustinian Andrea Biglia, who openly supported the difficult restoration initiated by Filippo Maria (1412–47). Extremely frank in tone, both the commemorative oration for Gian Galeazzo held in 1423,<sup>20</sup> (p.120) and the better-known *Historia patria* from some years later<sup>21</sup> identified the historic mission of the Visconti state in the ‘simplification of the political subjects present on the Lombard chessboard’.<sup>22</sup> The superiority of a single, vast political community to a plurality of independent communities—an idea already present in Egidio Romano, a great advocate of the *Regnum*<sup>23</sup>—was now, with originality, argued through the interpretation, in a tyrannical context, of individual polities: not because these could in some way be traced back to one of the kinds of tyranny identified by Bartolo, but because they raised obstacles to a peace that could only be realized within the boundaries of a broad, unitary state.<sup>24</sup>

### Notes:

(<sup>1</sup>) For this and other examples, see the recent work by Mineo, ‘Governo autoritario e ideologia della comunità’, 73.

(<sup>2</sup>) Baron, *The Crisis of the Early Italian Renaissance*, 28 ff.

(<sup>3</sup>) Chittolini, ‘Milano viscontea’, in particular 23. But already from the end of the 1430s in Florence there can be found an association between Guelphism and the struggle against the tyrannical Ghibellines. Bowsky, ‘Florence and Henry of Luxemburg’.

(<sup>4</sup>) Regarding lordly events in Florence, it is worth looking at De Vincentiis, ‘Le signorie angioine a Firenze’. On the association between Guelphism and *libertas*, also Ferente, *The Liberty of Italian City-States*, 167 ff.; eadem, ‘Guelphs!’.

(<sup>5</sup>) The citation is from Villani, *Cronica*, 164. See in regard to this, Artifoni, ‘La consapevolezza di un nuovo assetto politico-sociale’, 84.

(<sup>6</sup>) Quaglioni, *Civilis sapientia*, 18.

(<sup>7</sup>) Cengarle, *Lesa maestà*, 32 ff., 60 ff.

(<sup>8</sup>) Baldassarri, *La vipera e il giglio*, is worth a look for its extensive bibliography. But also see Valeri, *La libertà e la pace*. The image of Florence as a supporter of liberty could already be found in the late thirteenth century: Mundy, ‘In Praise of Italy’, 821. With regard to the theme of peace in Petrarch, constantly at the centre of the speeches and embassies that the poet made for the Visconti: Dessì, ‘Pratiche della parola di pace’, 293 ff; Caferro, ‘Petrarch’s War’.

(<sup>9</sup>) Isidoro wrote (*Orig.* IX, 3, 19–20): ‘Tyrant is a Greek name equivalent to the Latin *king*: in fact, for the Ancients there was no difference between king and tyrant, as in the verse “Peace will be to me to touch the tyrant’s hand” [Virgil,

Aeneid, VII, 266]. The name of tyrant was indeed given to the strongest kings: “tiro” in fact signifies “strong”. Of these, the Lord speaks when He says, “By me kings reign, and by me tyrants rule the earth” [Prov., VIII, 15].

(<sup>10</sup>) Gamberini, ‘Orgogliosamente tiranni’, 78 ff.

(<sup>11</sup>) The reference for this is Quaglioni, *Politica e diritto nel Trecento italiano*.

(<sup>12</sup>) ‘Statuta communis Parmae’, 1–3. On this passage: Cengarle, *Lesa maestà*, 74.

(<sup>13</sup>) ‘Qui tam feliciter tantam patruī tyrannidem deposuit et perfregit’, then that he was ‘tyranni iustissimus atque gloriosissimus triumphator’, and, finally, the ‘tyrannidis inimicus’. Gamberini, ‘Da “orgogliosi tiranni” a “tyrannidis domitores”’, 122.

(<sup>14</sup>) Levi, *Francesco da Vannozzo*, 258.

(<sup>15</sup>) There is an excellent summary of Lombard culture from the fourteenth to the fifteenth centuries in Zaggia, ‘Culture in Lombardy, 1350–1535’, in particular 166–77.

(<sup>16</sup>) Zaccaria, ‘Le epistole e i carmi di Antonio Loschi’. Citation 419.

(<sup>17</sup>) Gamberini, ‘Da “orgogliosi tiranni” a “tyrannidis domitores”’, 125–6. Petoletti, ‘Età dell’oro e profezia’, 411–31.

(<sup>18</sup>) Gamberini, ‘Da “orgogliosi tiranni” a “tyrannidis domitores”’, 126 ff.

(<sup>19</sup>) These are the tones of the verse letter that Uberto Decembrio sent to his friend Antonio Loschi on the duke’s death. Cf. *Ad virum praestantem et conspicuum Antonium Luschem Musarum celebritate famosum responsiva*. For the edition of the letter, cf. Piacentini, ‘“Viciavit Ubertus carmina”’, in particular 117–22.

(<sup>20</sup>) The text is edited in Schnaubelt, *Andrea Biglia*, 368 ff.

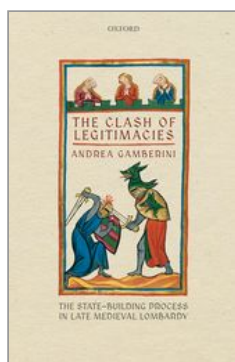
(<sup>21</sup>) Andree Biglia, ‘Mediolanensium rerum historia’.

(<sup>22</sup>) Ferraù, ‘Storia e politica in Andrea Biglia’, 304.

(<sup>23</sup>) ‘Indeed, the community of the kingdom in its own way seems to be in relation to the community of the city as this community (that of the city) is in relation to the home and to the neighbourhood/village. In fact, as the city includes the home and the neighbourhood/village and is more important than these communities and more autonomous in life with respect to the aforesaid communities, so the community of the kingdom includes the community of the city and is far more perfect and more autonomous in life than that community

(that of the city)'. Aegidius Romanus, *De regimine principum*, I, 1, f. 238. The passage is cited and commented on by Cengarle, *Les maestà*, 101.

(<sup>24</sup>) 'The chief task of the lord is to fight the "tyrants", the rulers of individual cities, to bring order, peace and equity of law and the ruler/tyrant dialectic is a structuring element in the whole narrative of, and constitutes the common theme in, the first constructive endeavours of Filippo Maria.' Ferraù, 'Storia e politica in Andrea Biglia', 324.



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## Law as a Field of Tension

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### Abstract and Keywords

As it had been in the communal age, so, in the Visconti-Sforza era, law was the instrument that the public authority relied upon in order to subordinate the many actors present and to subjugate their political cultures. There is, therefore, the attempt to tighten a vice around competing powers—a vice that is at the same time legislative, doctrinal, and judicial. And yet, it is difficult to escape the impression of an effort whose outcomes were somewhat more uncertain than had been the case in the past. The chapter focuses on all these aspects of the deployment of legal and other stratagems to consolidate or to wrest power.

*Keywords:* Law, court of justice, jurisdiction, plenitude of power, ducal authority

From the end of the 1330s, the Visconti pursued the transformation from political lordship ('*politicum dominium*') to royal lordship ('*regale dominium*'), or, in the words of Thomas Aquinas, the transition from a form of government '*coarctata secundum aliquas leges civitatis*' (that is limited by certain laws) to a '*plenaria*' (complete).<sup>1</sup> This is revealed by the reformed statutes of the subject cities, where references become more and more explicit with regard to both the subordination of positive law to the *dominus* and the affirmation of the inherited transmission of the '*naturale dominium*'.<sup>2</sup>

A decisive contribution to the effective implementation of these principles, which quickly became the cornerstone of the new constitutional structures, came from the evolution of legal thought, which seems to be strongly influenced by certain Aristotelian-Thomistic ideas. If, between the twelfth and thirteenth centuries, local jurists had come to identify themselves completely with the communal

experience, which involved a relationship of formal subordination to the Empire, their epigones in the fourteenth century felt an undoubted fascination for the centrifugal thrusts suggested by certain recent interpretations of Aristotle's *Politics* (Egidio Romano, Bartolomeo Fiadoni, Marsilio da Padova, etc.). These thinkers were inclined to identify Aristotelian *politeia* (the third form of legitimate government, after monarchy and oligarchy) with city communes.<sup>3</sup> Between the thirteenth and fourteenth centuries, the contrast between the universal ideal, competitively interpreted by papacy and by empire, and the pull towards *superiorem non recognoscentes* forms of government, became accentuated. The latter could be those of the city-state itself, as, on juridical rather than philosophical grounds, Bartolo da Sassoferrato also argued in the mid-fourteenth century; but also kingdoms and principates, all autonomous de facto from the *dominus mundi*.<sup>4</sup>

From this point of view, the debate regarding the attribution of *maiestas* represents—as Federica Cengarle's research shows—a very reliable litmus test for the transformations in progress, in which can be glimpsed both the crisis of universalism and the tendency to spread the ownership of sovereign prerogatives over a number of figures. For, if, at the beginning of the thirteenth century, jurists, albeit **(p.122)** not unanimously, also recognized *maiestas* to city communes, in the second half of the century certain *doctores* accorded this prerogative to the lord as well, in as much as he was the vicar 'now alternatively, now contemporaneously, of the Emperor and of God'.<sup>5</sup>

Faced with the recent developments in political-juridical thought, which contained within it both the foundations for the recognition of the full sovereignty of city communes and the premise for their displacement through new forms of lordly or princely government, the law became a rather fervid field of tension, on which the various actors met.

Thus, to return to the question of *maiestas*, it is no coincidence that the statutes of some Lombard cities (such as those of Como and Piacenza) introduced equivalence between political offence against the *civitas* and violation of the communal *maiestas*, on the very occasion of the review requested by Azzone Visconti. This was a way—and a barely concealed one at that—by which the two urban communities tried to reaffirm the primacy of the commune over the lord, tied to operating within the boundaries of, and fully pertinent to, the institutions.<sup>6</sup>

What appears to be the case, then, is that the jurists of the 1330s did not contest the advent of the multi-city *signoria* of the Visconti, but strove to keep it an organic part of the communal political system. They did not deny the lord their cooperation, but, if anything, were able to profit from the spaces that he conceded—for example, when it was a matter of revising the communal statutes—to negotiate the subordination of the *dominus* to the laws of the city. The same

*potestas condendi leges* was often presented in statutes as a delegation—and, as such, always revocable—from the people to the *dominus*.<sup>7</sup>

In reality, there was no lack of communities that, with great alacrity, endowed the lord with an authority not subject to communal institutions, prefiguring what would shortly take place throughout the whole domain. With a leap of just twenty years from the 1330s to the 1350s, it is possible to see the statutes take a different turn, more open in recognition of the *arbitrium* of the lord and the primacy of his decrees over other sources of law, starting with communal legislation.

Faced with these developments, some jurists, such as the famous Alberico da Rosciate, who had participated in the reform of the statutes of Bergamo in 1331, preferred to withdraw from public life, in veiled opposition to the successors of Azzone Visconti.<sup>8</sup> Others, within the same circle of Visconti supporters, instead more openly expressed their embarrassment regarding the increasing authoritarianism of the lords. Such was the case of the aforementioned Gabrio Zamorei, who in a sermon denounced those ‘unnamed’ tyrants of Lombardy

who do not want to be called by their names, that is, Lord Pietro or Lord Martino, but they want to be called simply “Lord” and want that it be said “the Lord wants”, “the Lord orders it in this way” without the addition of their own name. But they certainly do wrong in this, for no one should be called simply “Lord”, except God.<sup>9</sup>

**(p.123)** Yet the world of jurists seems to have been far from resigned to adopting an attitude of simple opposition. From the mid-fourteenth century, a new generation of *doctores* grew in authority, holding positions that were more conciliatory to recent lordly developments. The ideas of those such as Signorolo Omodei tended to attribute the Visconti, as imperial vicars, with ‘the fullest interpretation of imperial authority’, constituting an authoritative reply to those who criticized the lords of Milan.<sup>10</sup>

The new interpreters of the law also developed together with a juridical culture that was profoundly different from that which had inspired figures such as Alberico da Rosciate: the influence of Thomism was beginning to make itself felt in the legal sphere, too, opening up new hermeneutic possibilities.

It was not only a matter of new cultural currents that lay behind the increasing esteem of the jurists towards the *signoria*, however. The constitutional transformations in progress, far from undermining the role of the *doctores* as mediators of the increasingly complex relationship between norms and practices, actually gave them more opportunities for intervention. On the one hand, they retained—individually or as members of a city *collegium*—a large part of the role they played in city matters in the communal age. On the other hand, their contribution was constantly requested in order to support, and not only in

terms of legitimation, the growth of the *signoria's* governmental apparatus, which was now beginning to form a state of regional dimensions.

Assisting the lord in his daily government activity was a plethora of offices and officials, central and peripheral, with the host of problems posed by their everyday operation. Secretaries and chancellors were joined at the end of the fourteenth century by the new *consilium iusticiae* (justice council) and *consilium secretum* (privy council)—high-level councils that were simultaneously the decision-making bodies and supreme courts of the domain—and these remained in operation until the great reforms at the end of the fifteenth century, when Louis XII, King of France and new Duke of Milan, arranged ‘the concentration of the most important political functions ... in one single body, the Senate, and its President, the Chancellor’.<sup>11</sup> The financial administration was, on the other hand, a self-governing body, run by the general superintendents of ordinary and extraordinary revenue, who normally had a solid juridical background (the delicate issue of confiscation was one of their direct concerns).<sup>12</sup>

The growth of offices and officials was no less hypertrophic in the periphery of the state, where the Visconti authority, and then that of the Sforza, was generally represented by the triad of *podestà* (no longer a communal, but a lordly, nomination), captain (with military responsibilities), and *referendario* (for the fiscal and financial sphere), as well as a number of minor officials.

**(p.124)** All in all, therefore, a formidable apparatus, whose functioning not only required legal experts—at least at certain levels and for certain positions—but also constantly raised issues that could be solved only with the help of law specialists. Preparing the draft of a decree, revising the statute of a subject city, assessing tax exemption requests from individuals or territorial bodies, defining the competence of an official, giving advice on procedural aspects, preparing a rescript, participating in the activity of a commission (to conduct inquiries at a local level, review officials at the end of a mandate, carry out forms of delegated justice, etc.): these were only a few of the infinite number of problems that, in general, the state was able to deal with thanks to legal experts, whether as officials or as consultants.<sup>13</sup>

The political system created by the Visconti therefore legitimized the role of jurists to no smaller an extent than the communal system. And the jurists themselves were not slow in integrating with the new institutional structures, supporting the ‘lordly mutation’ *in puncto iuris*, accepting the lord’s decrees as the object and instrument of their work, and, above all, engaging in the work of reconciling the various sources of law.

On the whole, then, it was a fruitful collaboration. If, on the one hand, it broke up the until then preferential relationship between jurists and the urban world, it did not, on the other, lead to the establishment of a new and exclusive link



between law professionals and the prince. While they were able to set themselves at the summit of political society, the lords, and thereafter the dukes, failed to replace the *civitates* either as primary catalysts for legal thought or as its point of privileged reference. Almost two centuries of organic relationship with the city and its social and political dynamics left the *doctores* with a mental and intellectual *habitus* that continued to direct their activity for a good length of time. It should be added that the jurists' elaboration of the same language and method of work 'resulted in an extraordinary compactness of class ..., guaranteeing relative autonomy from political power'.<sup>14</sup>

For this reason, too, the law became a passionate battlefield and the efforts of lords and dukes to impose their authority simultaneously as both parameters and arbiters of legitimacy, encountered very strong resistance.

#### 4.1 Law as a Legislative Instrument

From the 1330s, the Visconti's attempt to intervene in local laws has been documented, as they tried to impose uniformity 'on matters of political and general interest (criminal matters, tax matters, and so forth)'.<sup>15</sup> Their activity was actually **(p.125)** as far-reaching as it was often lacking in coordination, proceeding at different speeds and with different intensity in the various centres involved. And yet, the early appeal to the *arbitrium* 'super bono et pacifico statu civitatis' made it possible for the lords not only to amend or abolish, all or in part, the statutes of the subject cities, but also to subordinate their validity to the absence of opposing lordly decrees. The revisions promoted by Gian Galeazzo and then by Francesco Sforza were famous, perhaps more for the general scope of the intervention than for its depth.<sup>16</sup>

Indeed, lordly edicts became more and more numerous over the course of time, to the point of creating the impression of an 'alluvial' production, capable of creating a kind of *ius commune* of the state by a process of sedimentation, at least where certain matters were concerned.<sup>17</sup>

In reality, this process was a much more casual one than certain subsequent collections (such as the *Novae constitutiones Mediolanensis dominii* of Charles V, or the *Antiqua ducum Mediolani decreta*) might have us believe.<sup>18</sup> Resistance was strong, above all, when the interventions of the lords threatened the very essence of *civilitas*, in the sense of a set of rights and traditions that made the communal political space an exclusive circle and the *cives* a privileged social group, giving rise to a lengthy struggle that not infrequently ended with the retraction of the lordly *ius novum*.

In fact, the Visconti-Sforza state remained a political construction largely indebted to its urban framework, something that differentiated it from the principalities that were taking shape over the same decades elsewhere in Europe.<sup>19</sup> The cities continued to be important (though not the only) pillars of the new institutional architecture. They were also the cornerstone of a

districtual geography that, though repeatedly fragmented by ducal feoffment and the concession to certain towns of privileges of jurisdictional separation, remained as vital as ever.<sup>20</sup> The city statute thus continued to represent territorial law for most of the *contado*, while the urban court generally maintained its primacy over the most important civil and criminal cases. It was, of course, perfectly natural that jurists, bound as they were by a host of links to the urban world, opposed the measures that most endangered this heritage of local traditions and rights.

This was the situation—in many respects an exemplary one—with the reform of the civil process, which for almost fifty years was a source of conflict between the dynasty and the judges of the cities' colleges. From the earliest days of the *signoria*, the Visconti were concerned to deploy their influence throughout one of the crucial sectors for the life of subject communities, the area of justice. If the nomination of the *podestà*, appointed by the *dominus*, made for a good level of control over the (p.126) criminal sector,<sup>21</sup> the issue of civil justice was a more complex one. In every city, this was administered not only according to special procedures but above all in forms which provided for extensive recourse to the *consilium sapientis iudiciale* (the binding opinion of a legal expert from the local college), resulting in the withdrawal of responsibility of the *podestà* (both with respect to the parties and with respect to the lord) and concomitant recognition of the *doctores* as custodians and interpreters of the norm.

Faced with this practice, the Visconti line of intervention was twofold. As Claudia Storti Storchi's detailed research has shown, on the one hand it sought to standardize the handling of civil cases in the domain, partly through the selection of those institutions and procedures which seemed to be more congruent with the legislative policy of the *signoria*. On the other, a new court of law was established in Milan that depended directly on the lord and was charged with tasks similar to those carried out by the communal tribunals.<sup>22</sup>

These were measures that caused damage both to local magistrates and to the legal experts of the city college, for whom consultancy activity assisting the judge represented a significant source of revenue and, above all, a channel through which to direct the outcome of the cases. While the reforms left the jurists of the college with extensive prerogatives at a local level (the right, at the request of one or both parties, to provide a binding opinion for the magistrate; the right to issue binding *consilia* when one of the parties, not satisfied with the judge's sentence at first instance, requests, at their own expense, the opinion of a college jurist), those same prerogatives were not valid for the cases debated at the new central Visconti's magistrature, which in fact were neither disputable nor bound to the *ordo iuris* of the city where the dispute had arisen.

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These aspects became the source of intense friction, as is evidenced by the repeated fluctuations in the Visconti's law, the continual corrections that took place until the end of the fourteenth century and even some episodes of boycott instigated by the collegiate *doctores* themselves. This was the case, for example, in Cremona, when the *doctores* were accused by Bernabò of not applying the lordly *super causis* decree. The threat in his words was explicit: 'we warn you that as far as the rest is concerned if you do not obey our decrees and orders, then we will have you suffer the pains of hell.'<sup>23</sup>

In the face of these many upheavals, the *signoria* finally seemed to surrender to the resistance of the colleges.<sup>24</sup> The outcome was undoubtedly a victory for the collegiate jurists. However, it would be reductive to see only the defence of a corporate interest behind this battle. It was not only the revenue and prestige of a powerful (p.127) sector of urban society that was attacked by the Visconti reforms, but—as in the Cremona case just mentioned—the protection of the statute, on which rested an important part of local political culture. From this point of view, the complaints of the *doctores* expressed a widespread discontent circulating in the subject cities, and it was also for this reason that the prince resigned himself to backing down.

Local jurists, sensitive when vital sections of the statute came under fire, were equally reactive when lordly interventions jeopardized the political identity of the *civitas* and the privileges of the *cives*. A good example of this was the resistance generated by Gian Galeazzo's attempt to weaken the status of *civis* and to contrast it with that of *subditus*, to which the lord tried to bind the enjoyment of crucial rights, such as that relating to property ownership in any province of the domain. Immediate protests came from local bodies and their elites, which forced the Visconti to revoke the unwelcome edict and restore the *status quo*, where the possibility of buying real estate was firmly yoked to local citizenship. This was an important result—even more so, if one considers the natural reluctance of the lords of Milan to amend or even to abolish their own measures: as Bernabò openly acknowledged, 'it is not for us honourable to write one thing today and tomorrow the contrary.'<sup>25</sup>

Retracted or amended decrees are a chapter in the history of the relations between the prince and the territorial bodies which is still waiting to be written, though some of the events, beginning with those mentioned here, seem to suggest the resolute ability of the statute to resist lordly legislation, at least in some matters.<sup>26</sup> Moreover, a creeping boycott by the territorial bodies was taking place not only in relation to decrees that presaged unwanted innovation, but more generally to the lordly *ius novum*, as other events show. From the early days of the *signoria*, the Visconti had, for example, taken care to request the incorporation of their decrees into the statutes of the subject centres. The transcription was officially motivated by the requirements of conservation and legal certainty—as indicated by the formulas 'to perpetuate memory of the thing,

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for greater precaution and for it to be clear even in the future' ('ad perpetuam rei memoriam, ad maiorem cautelam and ad futurorum clariorem evidentiam'). However, the appearance of the precept that the decree should be observed 'as if it were communal law' ('pro iure municipali') seems to reveal the real concerns of the *dominus*: only through the inclusion of the decrees in the code containing the *lex municipalis* could it be said that 'the subsumption of lordly legislation in the category of the statute' was accomplished.<sup>27</sup>

The letters accompanying the decrees were therefore peremptory in imposing the transcription of the decrees into the statute. But, despite this, the provision remained largely unsuccessful, as is indicated by an analysis of the statutory codes, where only certain edicts are actually copied. The lordly *ius novum* was instead transcribed *in integrum* in another code, to identify itself with the 'volumen aliorum (p.128) nostrorum decretorum' ('the book of our decrees') generally noted in the letters of transmission of the decree as another context, alongside the statute—but not replacing it!—in which princely legislation is recorded. The failure to insert the decrees represented therefore an outright violation of Visconti's provisions and constituted a gesture of great political importance; it aimed not only to compromise the equivalence of the prince's law with the *lex municipalis*, but to preserve what was called the 'ideology function' of the statutory code, a symbol of local identity and as such intolerant to external interference.<sup>28</sup>

The hostility of the major territorial bodies to the new *ius novum* then also emerges in other circumstances. Thus, for example, in moments of particular weakness for the state, some cities and towns were not content with opposing this or that decree, but sought to obtain the repeal of all the ducal decrees. They showed, in other words, that they wanted to regain full normative autonomy, with the strong support of those *doctores* who reiterated the validity of the theory of *permissio* (and therefore of the normative authority of the communes, founded on the Roman *Lex Omnes populi*), notwithstanding the established constitution of the duchy. The petitions of the people of Vigevano to the new lord Francesco Sforza in 1449, all of which were accepted, and those of the inhabitants of Bergamo to Louis XII in 1509, are highly indicative in this regard.<sup>29</sup>

Elsewhere, however, as in the case of Como shortly after the middle of the fifteenth century,<sup>30</sup> many decrees seem to have fallen into disuse, but without any particular plan of resistance on the part of the city commune. More simply, the ducal objective clashed with widely shared social practices which, as such, were difficult to eradicate. One good example was the affair of the decree against those who dared name the parties of the Guelphs and the Ghibellines, a transgression for which, as Nobile Oddoni remarks in a letter to the duke, no one had ever been condemned!<sup>31</sup>

Despite the lords' extensive and continuous legislative production, which was certainly capable of modifying local traditions in many areas (from fiscal matters to criminal, from economic matters to relations with the church, etc.), the decree, intended as an instrument of *potestas condendi leges*, in practice ran into a number of obstacles. These became insurmountable when the scope of the lordly *ius novum* touched upon areas such as the rights of the family (dowries, succession, marital relations), the privileged condition of the *cives*, and, a related theme, the delicate relationship with the *contado* (agricultural pacts, damages, the collection of debts). The cities set up effective and solid barriers around these statutory provisions, sometimes emphatically defined as *sancte* ('holy') by the *cives* (i.e. conforming to morality and therefore justly prescriptive). They were removed only to incorporate **(p.129)** norms that were equally 'sacred', whether lordly decrees or parts of statutes of other cities that further corroborated the privileged status of the *cives*.<sup>32</sup>

Historians have with reason, therefore, been able to highlight the long-standing validity of the statute—a little bruised, but certainly not compromised, by the new lordly legislation.<sup>33</sup>

#### 4.2 Law as a Doctrinal Instrument

The growth of the regulatory capacity of the Visconti, and then of the Sforza, also developed through the ability of the *signoria* to enter into dialogue with some of the most skilled jurists of the time. Those who became involved with the project of the lords, later dukes, provided them with important intellectual support.

In order to establish some of these highly authoritative figures in the domain, given that they were often employed in delicate missions that required their negotiating skills no less than their knowledge, in 1361 Galeazzo II founded a *Studium Generale* in Pavia. From its early days, it gathered together a group of local jurists dedicated to offering assistance to reinforce the *signoria*. These included the previously mentioned Gabrio Zamorei, Signorolo Omodei, and Riccardo da Saliceto, as well as Filippo Cassoli and Cristoforo Castiglioni. This last was a relative of Giovanni Castiglioni, professor of canon law and then Bishop of Vicenza, who was expressly cited by Gian Galeazzo as the mind behind the decree issued in 1388 to limit the powers of the inquisitors within the confines of the domain.<sup>34</sup>

The pinnacle of this recruitment policy is probably marked by the arrival, at the end of the fourteenth century, of the most famous jurist of the period, Baldo degli Ubaldi of Perugia, who, for the not especially moderate salary of 90 florins a month, agreed to teach at the University of Pavia and donate his abilities to the service of the Visconti.<sup>35</sup> If the great master's *consilia* and *questiones* touch on delicate aspects of the Visconti's foreign and internal politics (including the definition of the boundaries with Monferrato, the jurisdictional tensions between

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Pavia and Tortona, the *interpretatio* of the decrees of the lords, and *plenitudo potestatis*, the extent of Gian Galeazzo's ducal powers),<sup>36</sup> the *Commentary on the Peace of Constance* and the *Lectura feudorum* even more explicitly address the themes associated with daily government practice, from the degree of autonomy of the subject cities to the disciplining of lordly powers through feudal means.<sup>37</sup>

**(p.130)** But the organic relationship between the lawmakers of the *Studium* and the prince continued in the mid- and late fifteenth century, with names such as Sillano Negri, Andrea Alciato, Rocco Corti, and especially Martino Garati of Lodi, author of the famous *De principatu*, a collection of treatises dedicated to Filippo Maria, in which the jurist expressed an extremely indulgent attitude towards the duke, at times presented as a monarch, at times as *lex animata in terris*.<sup>38</sup>

It is worth noting that it was Garati's ideas that formed the basis of the Visconti's (the Duke Filippo Maria's) attempt to reinterpret the condition of his feudatories, transforming the status of vassals into subjects (with the relevant obligations). This was a real rewriting of rights, made possible by a reinterpretation of the feudal contract, which, from 'a tool of almost passive legitimization of not always defined locally-exercised powers', now became 'an instrument for the active reorganization of territory and jurisdiction'.<sup>39</sup>

The massive investment by the dukes of Milan, who never renounced their exclusive right to appoint the teachers at the University of Pavia, therefore proved to be a worthwhile one and made it possible, first for the Visconti and then the Sforza, to make use of the intellectual contribution of some of the most brilliant legal minds of the time—minds that were ready to engage with the consultants of the territorial bodies in highly sophisticated disquisitions regarding some of the principal cornerstones of the system.

An exemplary event is the dispute regarding the binding nature of the Peace of Constance, a true 'magna carta' of all the prerogatives of urban communes. City jurists and *doctores* in the service of the prince initiated a heated debate, with the former extremely determined to lay claim to the full validity of the privilege of 1183 and to make it a bastion against the Visconti's interventionism. This even meant—such was the case with the commune of Milan on the day following the death of the last duke, Filippo Maria Visconti, in 1447—establishing their own right to dominate other *civitates* and conferring the ducal title on Francesco Sforza.<sup>40</sup> The *doctores*, on the other hand, were busy trying to counteract city aspirations (Baldo, for instance, limited the duration of Barbarossa's concessions to thirty years) and, in the case of Martino Garati, to support a princely model of territorial organization. Here, the duke, unique possessor of the *merum et mixtum imperium*, not only obliges the lords of castles to recognize his superiority, but he 'subtracts from the cities land already part of their

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jurisdiction and **(p.131)** denies to the emperor himself the legitimacy of giving over to others castles and territories of Lombardy'.<sup>41</sup>

Notwithstanding the undoubted results in terms of the development of a doctrine consonant with princely goals, the ideas of the *Studium's* jurists turned out to be sensitive to the interests of other sections of society as well, beginning with the territorial bodies. On closer inspection, Baldo himself engaged in the defence of communal autonomy in the regional state,<sup>42</sup> while Giovanni Pietro Ferrari, the well-known *Practicus Papiensis*, openly criticized the *rescripta contra ius* sometimes issued by the *princeps*.<sup>43</sup>

The episodes of maintaining distance, as distinct from open dissociation, from the doctrine of the duke were, in fact, far from rare, just as those of explicit defence of the prerogatives of subjects and bodies were not infrequent. From this point of view, the event that best sums up the impression of a doctrine influenced, but certainly not controlled, by the prince, is that of the evolution of the concept of *plenitudo potestatis* (fullness of power), recently reconstructed by Jane Black. Developed by canonists in the context of the thirteenth-century strengthening of the papal monarchy, the *plenitudo potestatis* was quickly filtered into the civil-law field as well, where it was first evoked in order to support the enhancement of royal and imperial authority, and thus from the beginning of the fourteenth century—with the crisis of the competing universalisms of papacy and empire—also of the city lords. The first among the Visconti to invoke this true juridical master key was Azzone, and from then on the lords of Milan used it extensively to grant pardons, subvert the verdicts of ordinary courts, abolish laws, undermine the rights of political opponents, etc. Despite the extensive use made of it, the *plenitudo potestatis* presented several thorny questions, ranging from its derivation to its limits. However, the deliberation of the jurists seems to have been rather expeditious and, although there were some discordant voices, the *doctores* of the fourteenth century generally found in favour of the lords both in the matter of the origin of the *plenitudo* (traced back by some to the acts of concession of subject cities, by others to the imperial vicariate) and of its scope. Not only, then, was it recognized that 'rights guaranteed merely in civil law could be ignored without cause', but the principle was also accepted that the *dominus* could violate those rights (such as property) 'protected under higher rules', provided that the measure was motivated by just cause.<sup>44</sup>

With respect to this problematic picture, the end of the fourteenth century brought what appeared to be a twofold, and in some ways self-contradictory, watershed. The diploma of ducal concession of 1395, and especially the supplementary version of 1396, which expressly recognized the transfer of *plenitudo potestatis* from the **(p.132)** emperor to the new duke, made it possible to overcome the remaining reservations of the jurists regarding the origin of the highest of the lordly prerogatives. Baldo's observations, however,

which showed open disapproval of the way the *plenitudo* was exploited, triggered a long period of intellectual endeavour and reconsideration in the world of the jurists, the results of which matured during the fifteenth and early sixteenth centuries. It was then, in fact, helped also by the weakness of the legitimacy of the new Sforza dynasty (the Empire would not recognize its ducal status until 1494), that prestigious figures such as Paolo di Castro and Giasone Del Maino spoke out against the *plenitudo potestatis*. Andrea Alciato, meanwhile, came to define it explicitly as an abuse. The epilogue to this true revolt of the *doctores* came about at the height of the Italian Wars. Duke Francesco II Sforza, who had until then made prudent and parsimonious use of his prerogatives to disregard individual laws and legal systems, promoted a new collection of decrees, the famous *Nove constitutiones*, from which all references to the *plenitudo potestatis* were removed. This was a manifest renunciation, which over the following decades contributed to fomenting the idea of transferring the *plenitudo* to the Senate, the supreme court of the state.<sup>45</sup>

#### 4.3 Law as a Judicial Instrument

Not unlike the thirteenth-century city-states, which had first used the *tenaille* ‘monopoly of legitimacy/its affirmation through judicial channels’ to subjugate competing powers, the Visconti-Sforza regional state also had recourse to this instrument a number of times, with, as will be seen, more controversial results.

The first lesson the Visconti learned was that if the assignments, both at the new central tribunals and those involving a lordly delegate for specific disputes, were entrusted to school or college lawyers who were not also blessed with a strong political sensibility, then the risk was that they could not be easily controlled by the *dominus*.

A good example of this is an event that forms part of the reform of the civil process outlined above. The episode was brought about by the conduct of Bruzio Visconti, the natural son of Luchino, who in the 1340s procured from the Bishop of Lodi, under threats, the conferment of the property, tithes, and jurisdictions of the episcopal revenue.<sup>46</sup> The arrival of Archbishop Giovanni Visconti resulted in only a partial restitution of the goods (others were donated to third parties) and things worsened again when the grandson, Bernabò, came to power, determined to resume the policy of despoliation with regard to Lodi’s ecclesiastical patrimony.

Weary of being subjected to intimidation and scorn, Bishop Paolo Cadamosto decided at this point to bring an action against the *dominus* directly. He accused Bruzio Visconti of having appropriated the property of the bishopric through fraud and violence and requested complete restitution of the ill-gotten gains. Bernabò (**p.133**) referred the case to a legal expert at the *collegio* of Milan, Ruggero Biffi, but—and here is the first surprise—Biffi unhesitatingly pronounced sentence against the Visconti. Greatly vexed, Bernabò ruled that the



case should be judged by another expert at the Milanese jurists' guild, Andriolo da Dugnano, who acted as a judge of the *officium appellationis Mediolani*. Dugnano, however—and here is the second unexpected result—issued a decision that was entirely congruent with that of his colleague. More and more irritated, but also increasingly determined to have the result he desired, Bernabò decided to make use of local officialdom, someone with the most prominent political profile and therefore more docile to his will. With specious accusations, Lodi's *podestà* therefore incarcerated some of the bishop's male relatives who, under the threat of torture, renounced the tithes and lands which the prelate had in the meantime invested them with. After just a few days, the same rights and lands were granted, by a now resigned bishop, to certain figures close to the lord of Milan.

The practice of entrusting the administration of justice sometimes to the new central tribunals, sometimes to trustworthy servants of the *dominus*, and sometimes, as in the affair in Lodi, to both, became increasingly frequent. It was a manifestation of that special justice of the prince, which, set in motion by a plea or by the interests of the lord himself, offered the Visconti and the Sforza wide scope for intervention. It thus became 'one of the most common ways of managing the settlement of disputes'.<sup>47</sup>

In reference to these new practices, which delineate well the lordly *arbitrium*, it is above all necessary to point out the frictions and tensions generated. These appear to reveal not only the existence of different sensitivities with regard to the crucial theme of justice, but also of different cultures. The possibility of submitting petitions to the *dominus*, while on the one hand legitimizing the investigative and derogating powers of the latter, on the other opened the way for the revision not only of the sentences, but also of the norms and pacts of the *dominus* himself. Subverting the verdict of a legal expert or derogating local rules and customs were in fact two sides of the same coin: that of a power which, in the (alleged) name of higher equitable demands, did not feel bound by the rules of the communities, by the concessions of predecessors, or by the verdicts of peripheral officials.

An analysis of the tenor of the pleas reveals, however, the existence of a different culture of justice, which attributes another, different, function to the prince. Clear examples come from the petitions sent by communities in the face of unwanted innovations—whether these were promoted by the lord, his officials, or other local competitors—where the (true or alleged) violation of tradition, of local usage, or of what had been granted or agreed upon with the previous dukes became not only a matter of concern, but above all a pretext to remind the prince of his role as the supreme guarantor of order, something he was duty-bound to strive for. **(p.134)** In these texts, therefore, the ideal of the just prince is not he who exerts a power of derogation, but rather he who respects and enforces norms, pacts, and judgments. What takes shape in the

sources is therefore a true parting of the ways with the ideal of lordly justice, forming two contrasting models that were lucidly interpreted in the second half of the fourteenth century by the brothers Galeazzo II and Bernabò Visconti. Thus, while the latter carried out his role as *executor iustitiae* in a very intrusive manner, such as to have built up his image as one who took justice into his own hands, the former, as a contemporary chronicler recalls, ‘grants pardons very infrequently’!<sup>48</sup>

An interesting development that arose out of this clash between opposing cultures consisted of the debate that took place regarding the length of time that justice could take, a debate that periodically emerges from the documentation. The increasing interventionism of the Visconti, and then the Sforza, was motivated in fact by the goal of making sentences not only fairer, but also quicker.<sup>49</sup> In this perspective, the annoyance expressed by the duke with respect to the slowness of the trials and the muddled nature of the proceedings was not only a matter of regret regarding the difficulties encountered by his representatives in carrying out their work: it was also a way of discrediting the ordinary justice of the territorial bodies, which he intended to be supplemented by, and subordinate to, the new practices of princely justice.

The justice of the city courts, which, it is worth remembering, in the major cases had jurisdiction over the entire *contado*, was undoubtedly still very much linked to the complex procedures developed in the communal era and as such, a favourite area for jurists always ready to object to forms and to the substance of questions. Contemporaries were lucidly perceptive regarding all the limits of this justice, in terms of costs, uncertainties, and the dangers linked to the creation of new and additional disputes.<sup>50</sup> But it was in this complex procedure that they also equally found an effective system of weights and counterweights. In fact, the lengthy **(p.135)** duration of the proceedings was influenced, apart from the dilatory tactics of the lawyers, by practices respected and appreciated by the parties involved, such as the possibility of moving the dispute to other levels—the infrajudicial for example—before being brought back to the concourse of ordinary justice. The reaction of the prince to this way of carrying out the settlement of disputes was, in general, one of open intolerance: the extensions were dismissed as useless wastes of time and the procedural exceptions dismissed as ‘cavillations’, etc.<sup>51</sup> Of course, he himself also made extensive use of arbitral and extrajudicial forms, which found a great deal of consensus in society, but the distinctive feature of his kind of justice was—or wanted to be—speed. It was an aspect that conveyed gracious justice, the sort that arose from the reception of a petition (and which usually led to the promulgation of a rescript or the appointment of a ducal delegate as a commissioner).<sup>52</sup> Another sort was the justice exercised by the central magistratures (the privy council, council of justice, superintendent general of revenue, etc.), against which the duke hurled his disapproval every time he

perceived a suspicious delay, perhaps related to a counsellor keen to extend the duration of the proceedings and thus fraudulently increase his emoluments.<sup>53</sup>

Common to both forms of princely justice was in fact the widespread use of short-term procedures: with the power of his jurisdictional prerogatives, the duke often gave the legal experts the right to perform ‘*ius sumarium et expeditum*’ and to proceed in a simplified way and without formalism (‘*de plano, sine strepitu et figura iudicii, sola inspecta veritate, remotis cavillationibus et frivolis excetionibus*’).<sup>54</sup>

To reduce the time involved and at the same time render justice to the ‘*inhabiles ad litigandum*’, those who could not afford the guile and caution of lawyers: these were the motives that accompanied the introduction of new forms of justice, often warmly welcomed by the community.<sup>55</sup> And so that the long-drawn-out times, once thrown out of the door, did not creep back in through the window, the dukes, in choosing a delegated judge, seemed to favour politicians over the magistrates: the former, it seemed, were less likely than the latter to ‘argue with Bartolo and Baldo’, **(p.136)** or spend their time splitting hairs, as one defendant lamented effectively at the end of the fifteenth century.<sup>56</sup>

Of course, even princely justice caused standstills and delays: sometimes intentionally (when it was a matter of exerting pressure on one of the parties involved), more often involuntarily, when the instruments and procedures put in place by the dukes were exploited by opponents capable of continuously transferring the dispute from the ordinary level to the special and gracious level of the duke, from the judicial to the extrajudicial level, from the council of justice to the privy council, etc.

However, the failures and limits of ducal policy must not make us lose sight of the underlying issue, in other words, a certain intolerance on the prince’s part towards ordinary justice, presented as costly, slow, and inefficient. This campaign of denigration, which found fertile ground in the discontent of the subjects, concealed an ambitious plan that was in some ways revolutionary: to replace a form of justice that, although perhaps defective, was still founded on a culture that tendentially guaranteed the rights of the citizens, with another one, which, while faster, was certainly more arbitrary, and therefore more sensitive to political, rather than legal motivations. Episodes of justice subservient to the interests of the prince recurred throughout the Visconti—Sforza period, some of them well described by historians, but the sense of a systemic shift towards extra-judicial procedures took place in the late fifteenth century, when Galeazzo Maria Sforza and Ludovico il Moro made use of accusations and trials not only to help their friends and harm their enemies, but also to increase their revenues through fines and confiscations.<sup>57</sup>

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Few, of course, had the courage to protest, but dissatisfaction was widespread and seemed to spill out in moments of crisis in the duchy. Such was the case in 1499, when both Milanese and Pavian citizens, subject to the King of France and a new duke, Louis XII, explicitly requested the elimination 'of the invasive apparatus of the ducal councillors'.<sup>58</sup>

Signs of intolerance of the judicial practices introduced by the dukes can actually be seen even earlier, and it is no coincidence that the more explicit ones came from centres that, traditionally not used to such *novitates*, reacted to the cultural clash in progress with the vigorous defence of the idea of justice of which they were custodians. A good example was the case of Savona—a Sforza city only from 1464—which, **(p.137)** through the words of its *podestà*, expressed to the duke with crystalline clarity the reasons for the animosity of the *cives*. As is stated in the pertinent text, a rescript which does not derogate from the statute is useless and expensive, but one that prevails over the statute is equally negative, because it is in contravention of the norms.<sup>59</sup>

The persistence of different cultures of justice did not of course prevent the prince from trying to tighten his grip on competing powers (and idealities) through judicial channels, but results in this area did not always come up to expectations. The history of the feudal policy of the dukes of Milan appears in some way indicative, thanks above all to the studies by Giorgio Chittolini, who was the first to highlight the importance of the feudal relationship in the Visconti processes of territorial recomposition. On the day after the concession of the ducal title, which had brought Gian Galeazzo to the highest point of the Empire's feudal hierarchy over a large part of the Po Valley, he found himself custodian of a *superioritas* over the many castle lords endowed with imperial investiture. He also sought to exploit his new situation to tie other *domini* to himself through feudal channels: those who on very different bases (whether custom, pact, or recognition from former lords of Milan) were used to exercising government over lands and men. With all the power of his political and military weight, the Visconti tried to induce many rural lords to perform acts of subjugation and to acknowledge the vassalic derivation of their own prerogatives of dominion (oblate fief). There is no need to linger here on the chronology of this process, which was a rather discontinuous and irregular one, or its true reach—certainly very broad, even if the ecclesiastical lords, the minor branches of the Visconti house, and certain important dynasties which remained recalcitrant, were excluded from the feudal framework. What I would like to emphasize is that the creation of these vassalic connections was not the ultimate goal of the princely act, but the precondition for further rewriting, this time unilaterally, both of the rights of the vassals and of their status.

These transformations took shape in the age of Filippo Maria, who from the end of the 1430s initiated a progressive erosion of the prerogatives of his feudatories, beginning with those in the area of tax.<sup>60</sup> In keeping with a decree

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of 1437, the granting of tax rights was now limited to those of the place itself (e.g. duties on bread, wine and meat, taxes on agriculture products, etc.) with the explicit exclusion of those reserved for city communes or the state (the hearth tax, the gabelle of salt). The measure was an extremely detrimental one for the prerogatives of the vassal. It did not, however, concern only new investitures or the renewal of old ones, but had a retroactive effect, not unlike all the new impositions and contributions on fiefs (such as the *annate*, theoretically a replacement for the military *auxilium*, but in fact additional to the latter) that had been put **(p.138)** into effect since 1426, according to a policy which then continued into the Sforza era as well.<sup>61</sup>

The redefinition of the content of the feudal relationship went speedily on with one decree after another. In 1441, another famous measure, the edict *De maiori magistratu*, introduced restrictions in the judicial field, reserving the appeal against the sentences of the feudal courts to the *maior magistratus* (highest magistrate)—whether the city *podestà* or the ducal commissioner—and limiting the powers of the courts in cases in which *cives* were involved.<sup>62</sup>

This colossal reconfiguration of the bonds of vassalage probably reached its peak in 1443, when Filippo Maria ordered that even the oldest investitures should be made to conform to the 1439 version. This required from the vassal not only the oath of loyalty and homage, but also that of obedience to all ducal mandates, given that he was now considered ‘*civis originarius et subditus*’. It was an innovation that revealed the attempt to transform the relationship of vassalage into a politically stricter obligation—one of subjection, in other words.<sup>63</sup>

With the creation of the normative framework, the duke had only, in 1444, to launch a vast judicial offensive against the many pockets of aristocratic resistance, with accusations that ranged from the usurpation of Chamber rights, acting ‘*contra statum nostrum*’, to the perpetration of evil and unjust acts ‘against those who are entrusted to our government’.<sup>64</sup>

Thus opened the period of inquisitions and trials targeting both those lords who refused to admit the vassalic derivation of their prerogatives, such as Pietro Maria Rossi<sup>65</sup> and Giberto and Angelo Sanvitale,<sup>66</sup> or those who, while acknowledging themselves to be vassals, either rejected demands for new contributions, as did the Scotti,<sup>67</sup> or were not able to comply with them in material terms, for instance the Mandelli di Pecetto.<sup>68</sup>

And it is the way that these proceedings actually went that revealed some of the difficulties faced by the duke in tightening his judicial/normative grip over competing powers. With regard to the strongest lords, condemnations not only proved *de facto* impossible to carry out, but if they were carried out, were followed within a few months by the granting of pardons. This was useful in

terms of re-establishing relationships but counterproductive in the context of eradicating the cultures of antagonistic legitimacy. This legitimacy in fact continued to be laid claim to, even **(p.139)** by those who finally resolved to accept ducal enfeoffment: as in the case of the Mandelli themselves, who in 1487 addressed a letter to the duke, by the hand of Dorotea, in which they claimed a good foundation for their original rights over Pecetto: 'notwithstanding that at present it is called fief, it was freely given [i.e. without feudal obligations], in payment for very many allodial goods, as the price of them'.<sup>69</sup>

Notes:

(<sup>1</sup>) The reference to the doctrine of Aquinas is in *Sententia libri politicorum*, I, 1, n. 5. See Burns, *Lorship, Kingship and Empire*, 16 ff.

(<sup>2</sup>) Cengarle, *Les maestà*, *passim*.

(<sup>3</sup>) On this theme, it is worth looking at Lambertini, 'La diffusione della "Politica" '. Also Ferente, 'Guelphs!', 575.

(<sup>4</sup>) Ryan, 'Bartolus of Sassoferrato and Free Cities'. But for the influence of political Aristotelianism on thought, see the lucid comments of Cengarle, *Les maestà*, 11–19.

(<sup>5</sup>) Ibid., 130.

(<sup>6</sup>) Ibid., 25 ff.

(<sup>7</sup>) Ibid., 26 ff.

(<sup>8</sup>) On Alberico and his relationship with the Visconti: Storti Storchi, *Scritti sugli statuti*, 9 ff.

(<sup>9</sup>) 'Qui nolunt nominari propriis nominibus, scilicet dominus Petrus vel dominus Martinus, sed simpliciter volunt vocari "dominus" et volunt quod dicatur "dominus vult", "dominus mandat sic", non adiecto proprio nomine. Sed certe male faciunt, nam nullus debet simpliciter nominari dominus, nisi Deus.' Cognasso, 'Ricerche per la storia dello stato visconteo', 125.

(<sup>10</sup>) Black, *Absolutism in Renaissance Milan*, 60.

(<sup>11</sup>) Leverotti, 'La cancelleria segreta', 252.

(<sup>12</sup>) If, from the beginnings of the *signoria*, every town in the domain used to give the lord a fixed sum, the *salarium domini*, retaining for itself what remained, from the mid-1380s all ordinary income (generally collected through duties and gabelles) was levied by the Chamber. The burden of the extraordinary

revenue, meanwhile, which territorial bodies collected, either through appraisal or additional taxes, became more frequent and more onerous.

(<sup>13</sup>) All aspects lucidly described in research by Covini, 'La bilanza drita', 15 ff. The absolute centrality of jurists in the state training processes at the end of the Middle Ages was underlined by Padoa Schioppa, *Italia e Europa nella storia del diritto*, 331 ff.

(<sup>14</sup>) Rossi, '... partialitas in civitate est tanquam vermis in caseo ...', citation 294. Also picked up by Covini, 'La bilanza drita', 21.

(<sup>15</sup>) Storti Storchi, *Scritti sugli statuti*, 87; Covini, 'La bilanza drita', 157 ff.

(<sup>16</sup>) On these aspects, it is worth looking at Storti Storchi, *Scritti sugli statuti*, with an extensive bibliography.

(<sup>17</sup>) This latter idea was originated by Enrico Dezza and repropounded by Leverotti, 'Leggi del principe, leggi della città', in particular 14.

(<sup>18</sup>) Respectively: *Antiqua ducum Mediolani decreta*, and Di Renzo Villata, 'Sulle tracce di un diritto "patrio"'.

(<sup>19</sup>) See the lucid comments regarding this in Chittolini, 'Italienische und deutsche Fürstentümer im 15. Jahrhundert'.

(<sup>20</sup>) A reinterpretation of the territorial construction processes in the Visconti-Sforza era in Gamberini, *Oltre le città*, 26 ff. Also Gentile, 'Aristocrazia signorile e costituzione del ducato visconteo-sforzesco'.

(<sup>21</sup>) It should be noted, however, that cities were still able to exert considerable influence over the *podestà* appointed by the lord: cf. Gamberini, *La città assediata*, 27 ff.

(<sup>22</sup>) The civil process reforms, promoted by various lords of Milan between 1340 and 1386, have been studied by Storti Storchi, *Scritti sugli statuti*, 318 ff.

(<sup>23</sup>) 'Avisamus vos quod de cetero non observabitis decreta et mandate nostra, faceremus vobis solvi de veteri et novo testamento.' Cf. Cognasso, 'Ricerche per la storia dello stato visconteo', 178.

(<sup>24</sup>) On the Milanese college, cf. Storti Storchi, *Scritti sugli statuti*. On that of Pavia, see instead Zorzoli, 'Il collegio dei giudici di Pavia'; also Covini, 'La bilanza drita', 180 ff.

(<sup>25</sup>) 'Nostro honori non est hodie unum scribere et cras contrarium.' Cognasso, 'Ricerche per la storia dello stato visconteo', 155.

(<sup>26</sup>) Gamberini, *Lo stato visconteo*, 148 ff. Massetto, 'Le fonti del diritto', 52 ff.

(<sup>27</sup>) Gamberini, *Lo stato visconteo*, 137 ff.

(<sup>28</sup>) The symbolic and ideological value of the statute has been noted by: Caroni, 'Statutum', especially 71; and Ortalli, 'Il ruolo degli statuti'.

(<sup>29</sup>) Storti Storchi, *Scritti sugli statuti*, 104 (regarding the *permissio*), 137–7 (on the revival of normative autonomy).

(<sup>30</sup>) Massetto, 'Le fonti del diritto', 57; Covini, 'La bilancia dritta', 111.

(<sup>31</sup>) The episode is described by Covini, 'La bilancia dritta', 120. Moreover, apart from the events that occasioned the decree, the Guelph and Ghibelline parties were instruments for the management of political competition. Cf. chapter 5.

(<sup>32</sup>) Covini, 'La bilancia dritta', 124 ff.

(<sup>33</sup>) Chittolini, 'Statuti e autonomie urbane'.

(<sup>34</sup>) Di Renzo Villata and Massetto, 'La facoltà legale'; on Giovanni Castiglioni and his contribution to drafting the decree of 1388 cf. Gamberini, *Lo stato visconteo*, 115 ff.

(<sup>35</sup>) As Baldo himself openly admitted in a *consilium*. Cf. Cengarle, *Immagine di potere*, 63.

(<sup>36</sup>) Conetti, 'Baldo e la politica viscontea'. Also Canning, *The Political Thought of Baldus*, 221 ff.; Pennigton, *The Prince and the Law*, 202 ff.

(<sup>37</sup>) Respectively Ascheri, 'Quicquid cantet ecclesia' and Danusso, *Ricerche sulla Lectura feudorum*. It is difficult not to relate the *Lectura feudorum* to the feudal policy activated by Gian Galeazzo after the ducal investiture of 1395.

(<sup>38</sup>) For a general survey of the *Studium* in the 1400s, cf. Di Renzo Villata and Massetto, 'La facoltà legale', 446 ff. Also Di Renzo Villata, 'La vita del diritto'. On Garati in particular: Storti Storchi, *Scritti sugli Statuti*, 93–4; Cengarle, *Immagine di potere*, 64 ff.; Soldi Rondinini, *Il 'Tractatus de principibus'*.

(<sup>39</sup>) Citation from Cengarle, *Immagini di potere*, 64.

(<sup>40</sup>) There are examples of urban appeals to the Peace of Constance against territorial amputations in Chittolini, *La formazione dello stato regionale*, 193, and in Gamberini, *La città assediata*, 47. It should be noted that while the Ambrosian Republic remained rather vague regarding the legal foundations justifying the succession to the Duchy of Milan, it was Francesco Sforza who corroborated the thesis of the centrality of the Peace of Constance and, therefore, the right of the Milanese to transfer the title of duke to him. Black,



'Double Duchy', in particular 16. On these themes, see also Chittolini, *L'Italia delle civitates*, 151.

(<sup>41</sup>) Cengarle, *Immagine di potere*, 65 ff. Citation from 73. Also Black, 'Gian Galeazzo and the Ducal Title', especially 125 ff. Eadem, *Absolutism in Renaissance Milan*, 84 ff.

(<sup>42</sup>) Storti Storchi, *Scritti sugli statuti*, 96.

(<sup>43</sup>) Di Renzo Villata and Massetto, 'La facoltà legale', 444.

(<sup>44</sup>) Black, *Absolutism in Renaissance Milan*, 5. Also Vallejo, *Ruda equidad*, 354 ff. Moreover, jurists considered that there were also pragmatic reasons for not questioning the *plenitudo potestatis* of the lord. Storti Storchi, *Scritti sugli statuti*, 98.

(<sup>45</sup>) Black, *Absolutism in Renaissance Milan*, 189 ff.

(<sup>46</sup>) The entire event is reconstructed by Agnelli, 'Vertenze dei Visconti colla mensa vescovile di Lodi'.

(<sup>47</sup>) Covini, 'La bilancia dritta', 76, where the author observes that 'The levels of ordinary justice, arbitral justice and extra-judicial and special forms of justice were continuously intertwined.' One, in some ways, exemplary, interpreter of ducal expectations in the areas of justice and officialdom was Gerardo Colli, now described in Roveda, *Un ufficiale sforzesco tra politica e diritto*.

(<sup>48</sup>) 'Gratias rarissime facit.' See Gamberini, *La città assediata*, citation from 253, n. 27. On the brothers Galeazzo II and Bernabò and their different approach to interpreting the ideal of the just prince, see *ibid.*, 253–4. Also Black, *Absolutism in Renaissance Milan*, 114 ff. For community examples of a prince respectful of norms, pacts, and ordinances: Della Misericordia, '“Per non privarci de nostre raxone, li siamo stati desobidienti”.' The same factors are found even in cases in which the counterparty of the *homines* was not a great territorial prince such as the Duke of Milan, but a small prince, such as the Marquis Pallavicino. In the statutes of his lands (1428) it was explicitly forbidden to the *dominus* to derogate from the sentences issued by his *rettori*. Cf. Gentile, 'Leviatano regionale o forma-stato composita?', 567.

(<sup>49</sup>) There is extensive confirmation in Covini, 'La bilancia dritta', *passim*.

(<sup>50</sup>) An exemplary case was the admonition of the jurist Tomaso da Caponago, in 1448 placed as an admonition in the Palazzo della Ragione in Milan. There is a reproduction of the epigraph in *Storia di Milano*, edited by the Fondazione Treccani, vol. VI, 479. Caponago's conclusion was depressing: 'those who are confident they will prevail, generally sustain a defeat; and if they prevail, taking into account the effort and expenses, they gain nothing' ('Et qui saepe credunt

obtinere succumbunt; et, si obtinent, computatis laboribus et expensis, nihil adquirunt'). Another fine testimony to the justice of local courts comes from a note of the Justice Council in 1468, in which it is recorded that the practice of paying off officials (*podestà*, captains, etc.) with the proceeds of the sentence meant the opening of proceedings 'for every frivolity'—for a trifle, in other words. Leverotti, *Governare a modo e stilo*, 54.

(<sup>51</sup>) There remains a great deal of evidence for this intolerance. Cf. Di Renzo Villata, 'La vita del diritto', 143. Covini, 'La bilanza drita', *passim*.

(<sup>52</sup>) Covini, 'Pétitions et suppliques'.

(<sup>53</sup>) However, in the face of ducal accusations regarding delays in proceedings, members of the Councils laid the blame on the college legal experts: Storti Storchi, '“Acciò che le cause passino più consultamente e con minor rechiamo”', in particular 150–3. On the same theme, see also Covini, 'La bilanza drita', *passim*, in particular 71 ff., and Vaglianti, *Sunt enim duo populi*, 123 ff.

(<sup>54</sup>) The formulary presented slight differences from case to case, but the substance was identical. Some examples in Covini, 'La bilanza drita', *passim*. Also Santoro, *Gli uffici del comune di Milano e del dominio visconteo-sforzesco*, 223.

(<sup>55</sup>) It was a pity that it was the very level of formalization and codification of the pleas that required the mediation of professionals which compromised the accessibility of the petition to the lower levels of the population. For all these aspects: Covini, 'Pétitions et suppliques'. Concern for a truly accessible justice is attested at least in the second half of the fourteenth century, when Bernabò, in order to save his subjects expensive trips to court, arranged for petitions to the lord to be placed in a recipient in the palace of the commune in Reggio. Cf. Gamberini, *La città assediata*, 253. The chronicler Goro Dati was keen to represent Bernabò Visconti as a defender of the poor: Black, *Absolutism in Renaissance Milan*, 117. Community expectations regarding quick and economic justice, possibly based on summary rite, are described by Della Misericordia, '“Uno ufficiale per governare questo paese”', 262.

(<sup>56</sup>) For all these aspects, please refer to the lively fresco on Sforza justice provided by Covini, 'La bilanza drita'. The citation is from 72. With regard to the dukes' preference for politicians over magistrates as delegates in the handling of disputes, the author notes that the prince's objective was to 'construct a justice sheltered from the excessive interference of doctrine'. *Ibid*, 144.

(<sup>57</sup>) Di Renzo Villata, 'La vita del diritto', in particular 167–8; Leverotti, '“Governare a modo e stilo”'; Covini, 'La bilanza drita'; Vaglianti, 'La detenzione del conte Pietro dal Verme'.

(<sup>58</sup>) Storti Storch, ‘“Acciò che le cause passino più consultamente e con minor rechiamo”’, 158. In fact the request was not accepted and, with the famous *ordonnance* of Vigevano of 11 November 1499, Louis XII instituted the Senate, in which the privy council and the council of justice were merged. The procedure, however, ‘excluded the possibility of bringing an action to the courts by individual members of the college’ and this was to ensure ‘within fairly considerable limits the principle of respect for the jurisdiction of the natural judge’. The admissibility of the *commissiones* in the cases was also subordinate to the *placet regio* or its chancellery. However, it is worth noting that some ambiguities in the legislation and above all its imperfect application created the conditions for perpetuating the confrontation between ordinary judges and central magistratures.

(<sup>59</sup>) The episode is reconstructed by Covini, ‘Pétitions et suppliques’, who also describes the complaints of a Pavian citizen regarding the practice of petitioning.

(<sup>60</sup>) With Filippo Maria, the jurisdictional separation of the territory subject to concession from the city that lay in the *districtus* became habitual. This act was prior to the concession to the feudatory of the *merum et mixtum imperium* with *potestas gladii*. Cf. Cengarle, *Immagine di potere*, 33 ff.

(<sup>61</sup>) Chittolini, *La formazione dello stato regionale*, 84 ff. Di Renzo Villata, ‘La vita del diritto’, 144; Vaglianti, *Sunt enim duo populi*, 27 ff., 111 ff.

(<sup>62</sup>) On the significance of the *De maiori magistratu* decree, a subject much debated by historians, see the clarifications by Gamberini, *Oltre le città*, 48.

(<sup>63</sup>) Cengarle, *Immagini di potere*, 50. A theme repropounded in a comparative context in Cengarle, ‘Vassalli et subditi’.

(<sup>64</sup>) As it says in the mandate to Nicola Bianchini, commissioner and vicar general, charged in 1444 to proceed against the recalcitrant feudatories and all those who would usurp royalty. The episode is described in Cengarle, ‘La comunità di Pecetto contro i Mandelli feudatari’, 105 ff.

(<sup>65</sup>) Regarding which, Gentile, ‘La formazione del dominio dei Rossi’, in particular 50 ff. Also Chittolini, *La formazione dello stato regionale*, 76.

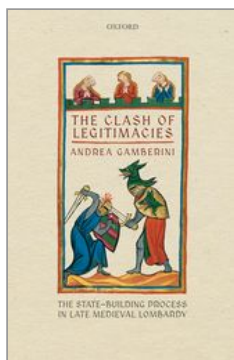
(<sup>66</sup>) Chittolini, *La formazione dello stato regionale*, 67 note 66.

(<sup>67</sup>) Gamberini, *Lo stato visconteo*, 41 ff.

(<sup>68</sup>) Cengarle, ‘La comunità di Pecetto contro i Mandelli feudatari’.

(<sup>69</sup>) Chittolini, *La formazione dello stato regionale*, 77.





## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Duke and the Culture of Individual Distinction

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### Abstract and Keywords

The great challenge posed by the construction of a state based around a noble and princely structure led first of all to confrontation with those republican ideals that continued to guide large and small communities in their day-to-day operation. Once again, the Visconti and the Sforza did not merely set about seeking a peaceful *modus vivendi*, but attempted to dismantle competing cultures through the development of an alternative model of social organization, based on distinctions among men. Communitary egalitarianism was opposed by the valorization of individual excellence, which the prince acknowledged on the basis of status, wealth, and local influence. This resulted in a frontal attack on the political subjectivity of the communities, which, however, reacted in different ways in the cities and in the countryside. This chapter focuses on these aspects.

**Keywords:** Egalitarianism, communitarianism, republicanism, social distinction, faction, duke

Feudal policy, which we have been looking at so far, is a good vantage point from which to observe another aspect of Visconti and Sforza culture—namely the constant tendency to promote a model of social and political organization based on distinction and individual excellence.

Let's go back, then, to feudal bonds: although from 1439 the form of investiture for vassals also included an oath of *subditi*, the duke's aim was not to diminish their primacy in the local context and even less so their noble status. In contrast, the prince showed that he encouraged the construction of a hierarchy-based society: if anything, he reserved the right to enucleate eminence, intervening in

the mechanisms of production of status. Thus, to remain in a feudal context, at the end of the fourteenth century there were more than a few enfeoffments that, together with the granting of jurisdictions, brought with them a prominent title to illustrate the role of vassal. This was usually that of count, more rarely of marquis or baron. These titles in no way increased the prerogatives of the vassals with respect to a simple enfeoffment, but they did possess great value at an honorary level.<sup>1</sup> The story of the Borromeo is a paradigmatic, though not uncommon, one. Immigrant bankers from Tuscany in the late fourteenth century, their influence grew thanks to the contract for the ducal treasury. Finally, their ambitions of dominance and affirmation were satisfied with the attribution of the fief of Arona, which came with the title of count.<sup>2</sup>

It was not only parvenus in ascendancy, however, who received investiture as count, but also figures already included amongst the exponents of the great territorial aristocracy, from the Landi to the Pallavicino, from the Trivulzio to the Beccaria, and so on. And it is these cases that reveal the prince's effort to make even the highest level of territorial aristocracy indebted to the duke for their own preeminence: not just the exercise of jurisdictions, but the very prestige of the household was now somehow bound to the recognition accorded them by the Visconti and the Sforza.<sup>3</sup> Even when not accompanied by the granting of the rank **(p.141)** of count, feudal investiture could still represent a badge of status. This aspect is well illustrated by Guarnerio Castiglioni, ducal adviser and feudatory, who, in announcing to Luigi Dal Verme the intention of Filippo Maria Visconti to grant him (Dal Verme) a 'great and beautiful *signoria*', portrayed him as a 'great vassal of Lombardy'. Expressions, therefore, that once again link power and social recognition to legitimacy from above.<sup>4</sup>

In the following notes we will see how the principality's tendency to become a promoter of the local hierarchy (whether legitimizing existing distinctions or encouraging new ones) and to base the construction of a new political society on the recognition of eminence was not limited to the sphere of lordly power. Rather, it represented the distinctive feature of the effort of political reorganization made by the Visconti and the Sforza—the way in which a lordly-princely form of state opposed the republicanism of the territorial bodies. From the perspective of the lords of Milan, the language of individual distinction became the key with which to dismantle that community and the class cultures around which competing political projects had over the course of time grown up.

It was Massimo Della Misericordia who revealed the prince's intolerance of community policy practices, especially those exercised in rural areas. These were tied to a participatory republicanism that had respect for highly formalized procedures and the integration of the individual into communal institutions as its most characteristic trait.<sup>5</sup> In fact, in a communal context, the decision-making moment passed through the filters of respect for norms and customs that, on the one hand, may have been there to protect the participation and free expression

of all those who had the right, while on the other, they exalted deliberation as a collegiate product: 'as if this whole community spoke', to use the expression found in one source.<sup>6</sup>

In the face of council operations, however, the reaction of the prince was generally one of annoyance and misunderstanding. First of all, owing to the fact that convocation, debate, and decision-making procedures required time that was not always consistent with the speed of execution demanded by the ducal mandates **(p.142)** (especially in the case of federal communities, those organizations of communities that in the alpine and pre-alpine areas had the task of mediating relations between local communities and the prince).<sup>7</sup> Secondly, because of the participation of individuals of low status, who were regarded with mistrust since they were felt to be rowdy and inept—prejudices that were widespread in urban and aristocratic culture and which also figured in writings and satires to do with rural people.<sup>8</sup>

Even the moment of encounter, rather than representing an opportunity for clarification, ended up aggregating misunderstandings. While curial behaviour codes required that an embassy to the duke be conducted by a person endowed with a particular rank (this was both an act of respect towards the prestigious interlocutor and a sign of the nuncio's reliability), rural communities sent counsellors whose identities were obscured by credentials they often did not even remember the name of; or, if they did recall the name, then they omitted the status. Their main concern regarded how to connect the credibility of the message to the community mandate conferred upon the messenger.<sup>9</sup>

The difficulty of interpreting these practices thus pushed the prince to approach them through the filtering of his own political culture, the culture of distinction: which often brought with it a reinterpretation of local society. Behind the decisions deliberated over time at the assembly, he did not see collectivity in action—something communal documentation always tended to emphasize—but rather the influence of a handful of 'main figures' who worked to manipulate the deliberations. This explains the prince's tendency to impute the bad conduct of a community to a bunch of 'thugs', a few hotheads requiring punishment and discipline. Hence also his tendency to privilege direct communication with certain specific figures in the area, evading the mediation of local institutions (in particular the assembly of family heads). The duke far preferred to deal with an individual, selected for his particular qualities, rather than a community, in the sense of a collective entity. And the qualities he liked in these individuals were, first, personal status (the higher the person's rank, the more he was considered to be trustworthy and his information reliable); wealth (because the person who accepted a commitment on behalf of the community was held personally responsible for the failure of the group); and his influence on local society (crucial to maintaining public peace or the swift collection of taxes).<sup>10</sup>

**(p.143)** Ducal reluctance to deal with those who lacked such qualities could also sometimes produce grotesque communication problems: an official, for example, might have difficulty transmitting a ducal order, because, as stated in a letter sent in 1469 by the captain of Val Lugano to Galeazzo Maria Sforza, following an epidemic, 'all the best men of the area are absent'.<sup>11</sup>

The prince's feelings towards the community's practices of coexistence are captured in written documents, particularly abundant after the mid-fifteenth century. The ducal correspondence, on the one hand, censored certain aspects of local public life with language that was moral-religious in form (insubordination becomes a manifestation of pride; the rivalry between groups or communities is caused by envy or anger, etc.), and on the other, through a new vocabulary of excellence, delineated the individuals whom the prince chose as privileged interlocutors. These are the 'meliores' ('most fine', 'best'), the 'principales' ('principal figures'), the 'homines de reputatione' ('men of reputation') that are also spoken of in the letters of officials: those who are credited with a particular role in communication between centre and periphery and are therefore on a higher level with respect to the community through.<sup>12</sup>

Behind these practices, it is not difficult to see a line that was openly aimed at weakening the political agency of rural communities and breaking up their horizontal cohesion, according to mechanisms that in similar forms involved urban communities also.

Shifting one's gaze from the countryside to the city, the same tendency of the duke is found once again—to recognize and valorize the excellence of individuals, to analytically deconstruct society into the individuals who compose it. There were the lists of the *apti*, the 'suitable', for the offices of court regularly requested from the subject cities, and the lists of young people of 'good condition', for whom it was necessary to make appropriate marriage choices (even for the duke!).<sup>13</sup> There were the lists of citizens to be initiated into the offices of the domain, in which the three-way division of destinations (major, medium, and minor lands) was reflected in the division of candidates into three distinct social groups, in accordance with the principle that the officer's condition must not be lower than the rank of the land assigned to him (or risk, otherwise, seriously offending the communities inhabiting the allotted lands).<sup>14</sup>

The political corollary of this propensity for social distinction, involving the identification of the *qualitas* of individuals, was, not unlike what occurred in the lands of the *contado*, the tendency of the Visconti and the Sforza to select the personnel they thought suitable for the functions of representation and self-government for the **(p.144)** urban communities. What was peculiar to the relationship with these communities was the manner in which lordly politics could be realized: the impression is, in fact, that the search for individual



interlocutors chosen for their qualities found a more favourable context in urban areas than in rural communities.

Ever since the early years of the commune, urban centres had developed a social structure that was far more stratified than that encountered in rural communities. In the city, the distance between the extreme opposites of the social scale tended to increase from an early stage, with class variegation becoming more complex. This produced ideal conditions for individual *qualitas*—although not uniquely defined by the competing actors—to be able to establish itself as a criterion of access to the government of public affairs (i.e. military ability in the consular age, social and economic credibility during the regimes of the *Popolo*, etc.).<sup>15</sup>

It is perhaps for these reasons, too, that the introduction of new practices of social and political recognition by the lords of Milan aroused less hostility in the city than in the countryside. Tension and conflict also occurred naturally in urban centres, but, if anything, these tended to flare up when the *cives* began to develop their own representations of individual excellence, which did not correspond to those of the prince.

At the beginning of the fourteenth century, the highest level of urban society in the Po Valley area was represented by a fairly small group of households. Generally it was a matter of a few families, endowed with followers within the walls and often outside as well, where perhaps they owned lands and castles, proudly divided by militancy on the opposing sides of Guelphism and Ghibellinism. What they shared was a similar sense of ambition, which had led them to pursue (in some cases successfully) autonomous dreams of *signoria*, in general in league with the *Popolo* and in ways that had led to the exile of the unsuccessful party. The best-known cases here were the Scotti in Piacenza, the Della Torre in Milan, the Correggio in Parma, and so forth.

The *pax viscontea* imposed by Azzone did not extinguish the hegemonic designs of these houses, but created the conditions for them to be able to accept the new domain, in which they were legitimized in terms both of their local primacy and of the factional culture that they represented.<sup>16</sup> Azzone Visconti did not choose to form an alliance with one party, the accepted method according to the most popular political tactics of urban lords at the time.<sup>17</sup> He acknowledged the role of all the major dynasties in urban circles, irrespective of their political leanings, thus inaugurating a period of highs and lows, abrupt cessations, and more or less confident revivals, that went on until the end of the fifteenth century.

The outcome was a political system in which all the most influential families (rooted in both the city and the *contado*) were recognized at the head of a similar number of factions (or *squadre*, as they were sometimes called),

corporate groups **(p.145)** that organized local political life on the basis of the principle of sharing out offices and council places fairly.<sup>18</sup>

It cannot be ruled out that in some cities this organization of the political space preceded the advent of the lords of Milan—for example in those centres where Henry VII's peace-making efforts had been able temporarily to call into question local policies based on the exclusion of the defeated party.<sup>19</sup> It is a fact, however, most recently stated by Federico Del Tredici, that with the arrival of the Visconti the *squadre* system became widespread throughout the domain.<sup>20</sup>

Their number varied from city to city, as did their denomination: where they were more than two, they tended to take the name of the family that was at their head; when there were only two, then sources preferred to label them with the names of Guelph and Ghibelline (sometimes even 'white' and 'black'), thus disguising the leadership, which was, in any case, aristocratic. At the end of the fourteenth century, there were two *squadre* in Como (Vittani and Rusca), two in Lodi (Vistarino and Fissiraga), five in Piacenza (Scotti, Landi, Fulgosi, Anguissola, and Fontana), four in Parma (Pallavicini, Sanvitale, Rossi, and Correggio), five in Reggio (Manfredi, Canossa, Fogliani, Roberti, and Sesso), two in Vercelli (Tizzoni and Avogadro), two in Brescia (Isei and Brusati), three in Cremona (the Maltraversi led by the Ponzoni, the Ghibellines of the Pallavicino, and the Guelphs of the Cavalcabò), etc.<sup>21</sup> Without lingering any further on the description of the factions in the different centres and the greater or lesser degree of formalization accorded to each in the individual cities, what I would like to focus on here is rather the result of these transformations. Everywhere, to a certain extent, this resulted in the disarticulation of institutional systems modelled on cultures of established urban tradition, from the communal to the popular.

In fact, those ideals of free participation in political life that had taken shape between the eleventh and twelfth centuries were beginning to fade. They were being replaced by a principle of cooptation on a factional basis, while urban identity itself seemed at certain moments to yield to the identity that emanated from appertaining to a *squadra*. This reached a point where in contexts where factions were most deeply rooted (such as in western Emilia), the council of the commune **(p.146)** tended to look more like a 'parliament of *squadre*' rather than the self-governing organ of the *cives*.<sup>22</sup>

The aforementioned case of the Emilian cities is probably exceptional, but it is undeniable that political organization by faction hindered community cohesion, rendering cities more vulnerable in the face of the Visconti policy of eroding their jurisdictional prerogatives. It is therefore no coincidence that the most convinced proponents of the *squadre* system included Azzone (1329–39) and Gian Galeazzo Visconti (1385–1402)—those who were most interested in

weakening urban autonomy, the former by removing self-government, and the latter by claiming communal tax revenues as well.<sup>23</sup>

The *squadre* system, however, was effective not only in damaging city communitarianism, but also another in well-known urban political culture, that of the *Popolo*. A *signoria*, such as that of the Visconti, quickly developed intolerance of any kind of conditioning from below: in the *dominus*, the very incarnation of aristocratic values, which identified its privileged point of reference in the noble elites, there was little room for coming to an understanding with the *societas populi*.<sup>24</sup> The strategy of Azzone and his successors was therefore to separate the destiny of the *populares*, who continued to be well established in the cities of the domain, from that of their ideology. While this was not acknowledged—and threatening edicts were deployed against those who even dared simply to mention the *populus*<sup>25</sup>—the groups that in general made up the *societas populi* were instead integrated into the city *squadre*, which thus ended up assuming important functions of social representation (and also social mobility).<sup>26</sup>

Not all the aristocratic leaders of the factions were happy about this, and partly for this reason the prince sometimes had to intervene in order to correct the choices of the party heads, especially when they seemed to favour one social component over the others. This was what happened in Parma, where, in 1388, Gian Galeazzo rejected the list of new counsellors appointed by the Rossi because of the lack of balance between the (many) *literati* and the (few) *artifices*.<sup>27</sup> And in Cremona, where, in 1472, Duke Galeazzo Maria Sforza, in reconfirming the traditional division of the council among the three city factions, was careful to ensure fair social representation within each section, where there had to appear an equal number of *maiores*, *mediocres*, and *minores*.<sup>28</sup>

**(p.147)** The Cremona affair, relatively well documented from the mid-fourteenth century, makes it possible for us to grasp how the introduction of the faction political system—by its very nature hierarchical and pro-aristocratic—was also linked to the restoration of the culture of noble distinction that the popular regimes had tried to overcome. A petition sent to Azzone Visconti, the new lord of Cremona, in 1335 shows that, even by this particular period, the factions had extended their influence over city politics, though their role in the nomination of counsellors was not made explicit by the statute.<sup>29</sup> In 1339 the language of excellence makes its appearance to indicate those who are eligible, with the statute prescribing that members of the Council of the Two Hundred are chosen ‘secundum qualitatem viciniarum de melioribus (‘the best’) civitatis Cremonae’.<sup>30</sup> Just a few years later, not only do sources register the established functioning of the faction system, but the value of social eminence is now openly acknowledged.<sup>31</sup> This is clear when two lists of councillors are compared. Whereas in 1341, Ponzino Ponzoni, Donnino Pallavicini, and Ugolino Cavalcabò (respectively the leaders of the Maltraversa, Ghibelline, and Guelph parties) are

recorded 'at the thirty-eighth, forty-eighth, and one-hundred-and-twenty-first position,' without honorary titles, 'in appearance, *cives* amongst *cives*', a new list in 1347 opens with the three party heads, the only ones—Marco Gentile notes —'to see their own names preceded by the *d.* of *dominus*, a clear sign of primacy'.<sup>32</sup> The two lists, in other words, seem to capture a crucial step in which the *squadre* political system, by now out in the open, is the vehicle for a return to the culture of eminence and distinction, powerfully backed by lordly acknowledgement, which protects it from the attacks of the *Popolo*. The latter, meanwhile, is largely absent from the local political scene, marginalized by an organization of local political space which once again depends on the most important aristocratic dynasties.

In a society, such as that of the city, in which representations of social eminence (and even of nobility)<sup>33</sup> were becoming increasingly significant, and in which the piazza was frequently a theatre for brawls and clashes 'in order to establish precedence and to show that one was superior to the other', the idea that it should be the *meliores* who took care of local government did not arouse the same disquiet that was observed in the countryside.<sup>34</sup>

**(p.148)** In Milan, too, the coeval *Statuta iurisdictionum* (1351) stated that members of the Council of the Nine Hundred were elected by the *dominus*, with the assistance of the vicar and the *Dodici di Provvisione*, 'chosen from amongst the best, the richest and most beneficial of the city'.<sup>35</sup> The only concession to class-based pressure—evidently still present—was the recognition of the legal participation of the law experts of the *Collegio* of judges and of the *milites adobati*. As for the *Dodici di Provvisione*, who were actually responsible for the city government, they were also chosen by the duke 'from amongst the best and most suitable'.<sup>36</sup>

What, however, was meant by *meliores*—and therefore on what grounds individual excellence was measured—is something that prince and city did not always agree upon. For this reason, the recognition of *qualitas personarum* soon became the subject of confrontation. In this context, the events in Cremona once again offer a good example. In 1351, Archbishop Giovanni Visconti replaced the traditional Council of the Two Hundred with a new body nominated by the lord, consisting of 152 members (50 per faction + two experts). Once again, the lexical choices with which the measure is presented are extremely interesting. It is the lord himself who informs the *podestà* of Cremona that he has elected 152 citizens 'chosen from among the good men in the attached document, who we consider to be the most suitable and most beneficial, not only for the maintenance but also for the enhancement of the honour of our state and the city of Cremona'.<sup>37</sup> Compared to the laconic testimonies of the previous decades, Giovanni's message reveals a further question posed by the introduction of the *squadre* system: that of the recognition of local political personnel, which Visconti does not intend to leave exclusively in the hands of the faction leaders.

Here, then, the *qualitas* of those eligible is defined in terms of *sufficientia* and *utilitas* with reference not only to the *civitas*, but also to the *dominus*, with a specification in which one can perceive what would become a lasting element of tension.<sup>38</sup>

Bernabò, in issuing in 1356 yet another reform of the Cremona council, already seemed to be withdrawing the mandate from the faction heads—‘since as a result of it matters arose of unheard-of gravity, which generated argument and factional conflict’—and taking upon himself the appointment of the commune’s new great **(p.149)** council, now significantly called ‘the Council of the magnificent Lord Bernabò, Lord General of Cremona, and of the men of Cremona’.<sup>39</sup>

In spite of such a radical measure, some doubts may be entertained regarding the effective ousting of the factions from the appointment of counsellors. Similar events in Lodi at the end of the fifteenth century demonstrate all the difficulties faced by the duke and his local representatives in autonomously selecting the *meliores* to be installed in the offices. As the local *commissarius*—author of a list sent to court in order that from amongst the ‘skilled and most suitable’ it would be possible to select ‘the most notable and worthy citizens ... in relation to the state and the city’—disconsolately observed, the names he had transcribed were actually those of the usual well-known figures, ‘being the ones most capable of government and of the best families in the city’. And if the embarrassment of the officer was great, that of his court connections was even greater, as they could not conceal their dismay when faced with the list, ‘for the little acknowledgement of the particular news of the citizens of Lodi, which is almost none’.<sup>40</sup>

Episodes of the suspension and then the resumption of the faction system are observed to a certain extent in all the cities of the domain, with a chronology that, while reflecting local affairs, also presents common traits. The era of Gian Galeazzo (1385–1402), for example, is everywhere marked by the complete restoration of political organization by *squadre*, openly acknowledged, even if subject to the careful vigilance of the *dominus*. In Cremona, a council of 150 was set up, according to a procedure with two steps clearly distinguished, respectively expressing the will of the factions and of the *dominus*. First, each of the three *squadre* designated a list of 100 candidates, chosen from amongst ‘the best, the least partisan, the least malicious and most diligent’. It was then the turn of the *podestà* to select fifty ‘chosen one for each squadra from amongst the best, the least malicious and most adamant of our state and of the aforesaid city’.<sup>41</sup>

The electoral method varied from city to city, but lordly control seems to have been highly active everywhere. In Parma, as has already been seen, Gian Galeazzo did not hesitate to reject the list of the Rossi’s *squadra*, since it did not

even respect the social divisions within the faction, while in Reggio his intervention was even harsher. He decided on the suppression of the Roberti's *squadra*, when its members made an attempt on the life of the Ghibelline *squadra* leader, Giberto da Sesso.<sup>42</sup>

After the turbulence following the death of the first Duke of Milan (1402), when the domain split into pieces, and the parties established new *signorie* in the cities (such as those of Pandolfo Malatesta, Ottobono Terzi, Facino Cane, etc.), the *squadre* system was restored, if with some caution and hesitation, by Filippo Maria.<sup>43</sup>

**(p.150)** It was maintained until 1440, when he decided to annul organization by *squadre*.<sup>44</sup> This was a gesture of open discontinuity with the practice of his predecessors, but the outcome was not the return to a system of free elections, perhaps in the style of communal tradition. With the decree of 2 May 1440, the Duke of Milan, after censoring the *execranda partialitates* with religious language, reformed the councils of all the cities of the domain. It was arranged that each of them would choose 150 *cives*—‘chosen for a third amongst the most wealthy, for a third amongst those with an average capacity of contribution and for a third amongst the least well-off’—from whom it would then be required that they select by ballot the new group of Elders who would be in charge for the following three years.<sup>45</sup> In appearance, it was the return of a fundamental prerogative to the cities, the self-determination of members of the councils. In reality, the mechanism defined by the decree, with the rigid horizontal tripartite division of society, each division having the right to a representation that was autonomous and equal to that of the others, compromised the reconstitution of all the traditional forms of political aggregation. With the prohibition of inter-class forms, such as the factions, very little space also remained for those based on class, since no social body (whether the aristocracy or the *populares*) could outnumber the others (each one having fifty seats). More than a return to an autonomously defined political competition *in loco*, the decree prefigured the segmentation of society into hermetic compartments, producing results not dissimilar to those of organization by *squadre*. While the latter weakened community cohesion by creating vertical groups such as factions, the tripartite system based on income aimed at the same goal through the horizontal division of the social body, in which no one group could prevail over the others.

There is, it appears, one point on which even such an innovative decree conforms to tradition and that is certainly the use of *qualitas personarum* as a means of discrimination with regard to access to the councils. But, in reality, even here there was a certain level of innovation. While continuing to refer to individual excellence, the duke was now reluctant to mention the *meliores*, a category that was far too slippery as a definition and a form of Trojan horse for the factions. Instead, he preferred to provide a technical basis for the *qualitas* of individuals, and to reinforce it on a moral level. So, in the ducal decree it is

written that the 150 were ‘the most upright, and the most suited to govern and to conduct affairs of state’.<sup>46</sup>

The new Sforza dynasty was also immediately aware of the fact that the category of *meliores* lent itself to a local declination in a predominantly factional sense, as if the factions could decide for themselves the selection of the *meliores*.

**(p.151)** In 1450, the citizens of Piacenza proposed an electoral reform to Duke Francesco that apparently took into account the anti-faction example offered by Filippo Maria’s decree of 1440. However, unlike the latter, the tenor of the proposal revolved around the need to nominate the best and most suitable from amongst the *cives*. The electoral body was divided into four parts, corresponding to the city neighbourhoods.

Each district assembly would have to elect, from within, the fifty *meliores* and *aptiores*, that each year, for the three years that they were in office, would gather, by the middle of December, to choose among themselves the three deputed members who seem to be the best (*meliores*). The latter had the power to elect, by the end of December, the twenty-five *meliores*, *prudenciores et aptiores*. These, together with the other three groups of twenty-five citizens, similarly elected in the other assemblies, would form the General Council, composed of one hundred members. The same three deputed members would also choose, from the twenty-five elected to the General Council, the eighteen members who would compete, for that area, to form the Elders of that year.<sup>47</sup>

Realizing that the insistence on the excellence of individuals to send to the council (and selected locally, not by the prince!) concealed just what the reform, in appearance, was designed to oppose—the return of the *squadre*, in other words—the duke prevented the proposal from being put to the vote.<sup>48</sup>

In reality, between the era of Francesco Sforza and that of his son Galeazzo Maria, the *squadre* system managed to re-establish itself in various cities in the duchy. There too, as in Parma, where reforms were swiftly produced (in 1456, 1466, and 1484), what was a matter of discussion was not so much the division of society into factions, as the identification of the faction that the duke decided to support: in 1456, the Rossi; in 1466 all the four *squadre* present (though that of the Correggio was transformed into a ‘ducal’ faction and the patron was Galeazzo Maria Sforza himself); in 1484, only the Correggeschi, Sanvitalessi, and Pallavicini.<sup>49</sup>

Seen retrospectively, during the Visconti-Sforza period the factional system seems to show a substantial capacity for endurance, somewhat bruised, but not really compromised, by projects based on antagonistic political cultures. Filippo Maria Visconti’s adherence to the anti-faction movement of the Observant Franciscans led to the issuing of the often-mentioned decree of 1440 and the

establishment in certain centres (Como, Lugano, Piacenza, later also Pavia) of the so-called leagues of the Holy Union, an agreement between the *cives*, which, in the name of a *unitas* freighted with transcendent values, rejected division into parties. Even this highly significant episode, however, did not produce long-lasting effects.<sup>50</sup> Filippo Maria's successors did not encourage similar developments and indeed seemed rather **(p.152)** suspicious of the activities of the preachers, potential harbingers of consequences that were hard to control. There is the example of the famous friar Michele da Carcano, exiled from the duchy after a Lenten sermon in 1471, when some of those present 'had shouted praise to liberty and the past Ambrosian republic'.<sup>51</sup>

The factional system also returned after the serious constitutional crises of 1402 and 1447, when the collapse of ducal power had created the conditions for a different reconfiguration of political life in the cities. In Milan, for example, after the death of Gian Galeazzo, the political culture of the *populares* resurfaced. This was evidenced by the momentary return of the figure of the captain of the *popolo* and the adoption of a measure of unequivocal significance—the renewal of the *estimo* through the work of a commission in which only *mediocres* and *minores* took part.<sup>52</sup>

It was a movement that in reality continued to pop up now and then, during the Ambrosian Republic (1447–50) and then again during the Wars of Italy, with a frequency that testifies to the uncommon vitality of these segments of society. Milan was, moreover, a city with an exceptional demographic consistency and the *artefici et merchadanti* alone represented almost half of the Ambrosian population at the beginning of the sixteenth century. This is a far from negligible fact: a citizenship of this size was in fact 'difficult to control through clientelism, even by prominent high-level families' and this certainly facilitated the development of horizontal solidarity.<sup>53</sup> Popular claims were also seen in Cremona, another rich and populous city, where in 1385 the *populus minutus* did not hesitate to present its petitions to the new lord Gian Galeazzo, asking for the allocation of one third of the seats in the council.<sup>54</sup> But signs of action by the *populares* were also observed in a much smaller centre, Tortona, where the division between *societas populi* and nobles was institutionalized.<sup>55</sup>

Behind these episodes can be seen the strength of social groups and political cultures that the principality had managed to subdue, if not extirpate entirely. But it is still a matter of events that should not be overestimated. This was partly because artisan and mercantile classes—except for rare exceptions—were not able to build an autonomous capacity for action around the traditional values of the *populus*.<sup>56</sup> The word *Popolo* itself at the end of the Middle Ages was still freighted **(p.153)** with ambiguity, fluctuating among a variety of very different meanings.<sup>57</sup> And it was also partly because the culture of social distinction, encouraged by the principality, became widespread in the cities, creating the conditions that meant it was not the political ideas of the *Popolo*, but those of the



new, eminent groups, that progressively established themselves from the end of the fifteenth century.

As a great deal of research has shown, in the Lombard cities of the late Middle Ages, the term 'noble' did not apply only to the handful of dynasties at the head of the factions, or to the castle-owning aristocracy, but to a far wider social spectrum. This included individuals with a variety of origins, from legal experts to merchants, from doctors to career administrators in state and communal offices, according to classifications influenced by local customs.<sup>58</sup> These are figures to whom contemporary sources do not hesitate to attribute the rank of *spectabilis* and the titles of *nobilis vir* and *zentilhomo* (gentlemen). Such occurrences may, on the one hand, indicate a downward sliding of certain terms of distinction that were once the prerogative of much narrower social circles and, on the other, demonstrate how, at the end of the Middle Ages, the process of aristocratization affected not only specific individuals, but entire groups.<sup>59</sup>

From the fourteenth century, cities were the breeding ground for increasingly new representations of prestige and nobility. These went hand in hand with those conferred by the prince (for example, noble and knightly ranks and prestigious positions at court). They were, in other words, new idealities, which certainly benefited from the temper of the time (the inclination, in other words, of Visconti and Sforza to encourage distinction between men and recognize individual status) but which were not attributable to direct action from the duke.

**(p.154)** One needs, then, to look at the vivacity and strength of these new forms of eminence, generally arising spontaneously and from the lower levels, in order to find the premises for an alternative political proposal to that of the factions, one able to horizontally aggregate the high levels of urban society. It is a matter—it should at once be pointed out—of processes that are neither straightforward nor rapid, which come to fruition over long periods of time, and which certainly exceed the chronological scope of this work. However, it is precisely at the close of the era under consideration here that the first signs of this transformed political culture are visible. Reference to the *meliores* does not disappear from the sources, and neither does the idea that those elected to office must be faithful to the *civitas* as well as to the prince. What emerges instead—and this is where the innovation lies—is a strictly class-based claim, which bases the right to participate in public administration in being part of the local nobility. It is a broad spread of nobility, of course, including titled individuals (*milites*, counts, etc.), but which tends increasingly to define itself on the basis of eminently urban criteria: firstly, citizenship, if possible for a number of generations (*civis* and *nobilis* are often used as synonyms in the sources), and then membership of (or eligibility for) some illustrious professional colleges or guilds, such as for the mercantile or notarial trade.<sup>60</sup> These latter groups, however, also mark the lower limit of a social body that builds much of its own identity on a sense of otherness with respect to those 'mechanics', 'artisans',

those *idiotae personae sine litteris* (simple and unlettered men), to whom, for good or ill, the factions used to guarantee participation in communal assemblies.

These processes fluctuated in terms of time and method from city to city. In Milan, the first moves towards an aristocratic reconfiguration of the spaces of participation in urban life took place primarily in the professional colleges (such as the college of physicians and that of legal experts), which from the second half of the fifteenth century closed their doors to families linked to the *arti vili* (low-level crafts and work).<sup>61</sup>

When, then, one of the many crises provoked by the clash between the factions brought about a search for alternative political solutions, the new oligarchic culture also began to extend to the heights of the city's institutions, from the communal council to the larger welfare institutions. It was in situations of this kind that the claims of those *cives* began to be heard: although of recognized eminence, they had until then remained in a subordinate position with respect to the few party leaders who led the political dance in every city.

Faced with these surges, which broke through the traditional factional arrangements, the reaction of the duke and his officials was generally acquiescent. On the one hand, these events seemed compatible with the principle—a kind of guiding star of ducal policy—of the recognition of eminence as a means of selection of local interlocutors. What was changing was that there was now a section of society **(p.155)** benefiting from ducal legitimization that was wider than those few families of faction heads who for over a century had been elected as the privileged points of contact for the Visconti and the Sforza. On the other hand, a council of nobles, elected for life, 'a place abundant with men endowed with prudence, seriousness and common sense' ('coppioso de homeni prudenti, gravi et sensati'), seemed to provide a sense of stability that the sometimes violent competition between the factions would tend to jeopardize. As is evidenced by an anonymous report to the duke regarding a project of reform of the Parma Council, the leaders of the parties found the 'mechanics and other members of the people' to be the most faithful executors of their own will. This, then, gave rise to the suggestion to elect only 'the most notable and dignified citizens, and the flower of gentility', figures that the sources considered more inaccessible with respect to the factions (allowing us perceive the new and appropriately class-based interest that bound that social group).<sup>62</sup> Just a few years later, the heads of the *Ospedale Rodolfo Tanzi* were also elected according to this new logic.<sup>63</sup>

This trend was not limited to Parma alone. In Lodi, for example, in the era of Ludovico il Moro, the traditional division by *squadre* was replaced by a particularly class-based connotation, with the *legumdoctores* placed first, followed by the exponents of the two main houses (Fissiraga and Vistarino) and

a restricted number of kin. And a fairly similar picture is offered in the early sixteenth century by other cities in the duchy, such as Cremona.<sup>64</sup>

In Milan, too, a city without its own representative assembly and in which dialogue with the Sforza dynasty was usually carried out through people of the *corporazioni* (i.e. the higher classes, professional colleges, and guilds), the elitist tendency showed itself through a further selection between the interlocutors of the prince. Increasingly, representing the city in the early decades of the sixteenth century were the heads of the most important colleges and guilds and of the most important urban *Pia Loca* (hospitals and charitable organizations) and *nobiles cives*.<sup>65</sup> These were all members of sectors of urban society whose rise was also recorded at an institutional level: Francis I, King of France and Duke of Milan, established that the vicar and the *Dodici di Provvisione* (the commune's supreme council) were 'gentlemen of the best and most prudent kind'.<sup>66</sup> There was also a lexical level: in the cities of the duchy, alongside the creation of a noble urban class that increasingly identified itself with the civic government<sup>67</sup> and with access to the most prestigious **(p.156)** professional colleges (in turn well-represented in the councils), expressions began to appear, initially rather cautiously and only in literary sources, such as *patricius* or *decuriones*, which renewed the lexicon of distinction in strictly civic terms (*decurio* was a local office of councillor in the Roman municipal system).<sup>68</sup>

There was no lack of effort to balance these tendencies in an oligarchic sense: in Milan, for example, during the French domination, this led to the establishment of forms of representation on a territorial basis (the parishes), which sometimes accompanied, sometimes replaced, convocations based on class.<sup>69</sup>

During the Wars of Italy, the situation was fairly fluid and the factions once again came to the fore, thanks partly to a revival of ancient Guelph and Ghibelline loyalties. In this era, the new patrician forms actually coexisted (and often intertwined) with the more traditional factional system.<sup>70</sup>

Charles V, finally, made the decision to reduce in size the territorial aristocracies that were, in many cities, the traditional referents for the factions, and chose to give back to the city the role of political referent for the sovereign: this marked the definitive end of the *squadre* system.<sup>71</sup>

The principle of excellence was still the basis of local political culture, but it was an idea of excellence that was largely renewed in its content. It was increasingly rooted in the individual's attachment to a dynasty of established urban tradition and/or to an authoritative professional college. The qualities of the individual person did not wholly lose their relevance, but they were increasingly measured through the new set of class-based parameters (the adherence to a truly patrician lifestyle, at least in terms of marriage choice, the prestige of residence, abstinence from activities considered to be of a low level, etc.).<sup>72</sup>

**(p.157)** Typical of this new climate was an episode that occurred in Cremona in 1542, when the Marquis del Vasto, the Spanish governor of the state of Milan, ordered the *podestà* to renew the Council of One Hundred and Fifty. To this end, the official had to name 'six men of that city of those who bear the best of names, and who to *iudicio vestro* are without partiality and go sincerely and justly'. These six should then draw up a list of 300 names 'from all the houses, and there should be gentlemen, merchants and other ranks', from amongst which the *podestà*, in agreement with the the castle governor, would select those to be submitted to the confirmation of the governor.<sup>73</sup> In reality, however, things went very differently. As del Vasto himself discovered, the expectations of those who bore 'the best of names' produced a project that was not at all similar to the one conceived by the governor. Not only was the list reduced from 150 to 96, but 'any mention regarding the quality of the candidates' disappeared.<sup>74</sup> 'The best', by then, were recognized on the basis of factors such as kinship, enrolment in one of the most important professional colleges, and the exhibition of a lifestyle consistent with the status claimed. In other words, according to criteria of selection that were increasingly defined on a more local basis and less and less in concordance with the centre.<sup>75</sup>

In conclusion, as far as the number of *meliores* was concerned, while remaining limited, it seemed to have grown considerably compared to that of the three or four houses that dominated the scene in every city at the beginning of the fourteenth century, and who were responsible for selecting the remaining *aptiores* to be admitted to the communal councils. It was, in fact, a completely different world that was emerging in the mid-sixteenth century than the one Azzone Visconti had faced two centuries before.

Notes:

(<sup>1</sup>) Chittolini, *La formazione dello stato regionale*, 4.

(<sup>2</sup>) Chittolini, entry *Borromeo Vitaliano*.

(<sup>3</sup>) This, of course, does not detract from the fact that the greatest aristocratic lineages, even if ready to seize the opportunities of growth and entrenchment offered by the dukes, continued to consider themselves as having a social eminence that owed nothing to the duke, and which was even superior to that of the prince himself, especially when belonging to a new dynasty of humble origins such as the Sforza. A good example, at the end of the fifteenth century, was the epithet dealt out by Gian Giacomo Trivulzio to Duke Ludovico il Moro, dismissed as 'Ludovico da Cotignola', giving him the name of the small village in Romagna where Muzio Attendolo, the founder of the house's fortune, had been born. Cf. Arcangeli, *Gentiluomini di Lombardia*, 133-4.

(<sup>4</sup>) Castiglioni went on: 'his lordship wills that we [the feudatories] should join together with those from a less aristocratic background and thinks thus to

establish great order through us.' Giorgio Chittolini has rightly seen lying behind these words the theorization of the 'fief of *signoria* as a prize for those faithful to the duke and at the same time as an instrument of organization of the state, capable of bringing order and stability to the subjects'. Chittolini, *La formazione dello stato regionale*, 91. It should be noted, moreover, that those same vassals 'in turn ... ruled their fiefs by carefully considering the individual position of the subjects, some gentlemen, others of the first and best families of the land, another the first man of the whole valley'. The *habitus* of distinction, in other words, fully permeated society. Cf. Della Misericordia, 'Decidere e agire in comunità nel XV secolo', 324.

(<sup>5</sup>) Della Misericordia, 'Principat, communauté et individu au bas Moyen Âge'; Della Misericordia, '“Como se tuta questa universitade parlasse”'.

(<sup>6</sup>) Ibid.

(<sup>7</sup>) The impression of lack of resolution and inconclusiveness on the part of the prince and his officials with regard to the time taken for council work is described by Della Misericordia, 'Decidere e agire in comunità nel XV secolo', 338 ff. The slowness of the decision-making process in the republican sphere became a true *topos* of political debate between the fourteenth and fifteenth centuries. Cf. Ferente, 'The Liberty of Italian City-States', 171. On the theme of communities of communities (or confederated communities) see Della Misericordia, *Divenire comunità*, 661 ff. While the studies above were all in an alpine and pre-alpine context, confederated communities were also present in the lowlands, at least in a *contado* as large as that of Milan: Del Tredici, *Comunità, nobili e gentiluomini nel contado di Milano*, 177.

(<sup>8</sup>) Della Misericordia, 'Decidere e agire in comunità nel XV secolo', 347. On the genre of satires about peasants cf. Applauso, 'Peasant Authors and Peasant Haters: Matazone da Caligano and the Ambiguity of the *Satira del villano*', 607–37.

(<sup>9</sup>) Della Misericordia, '“Como se tuta questa universitade parlasse”', 63.

(<sup>10</sup>) Ibid., 29 ff.

(<sup>11</sup>) 'Li meliori di quella terra sono apsentì.' Ibid., 42.

(<sup>12</sup>) Della Misericordia, 'Decidere e agire in comunità nel XV secolo', 322 ff.

(<sup>13</sup>) On the *apti* at court offices, all of good condition, children of gentlemen, see, by way of example, the cases cited in Gamberini, 'Cremona nel Quattrocento', 35 and in De Luca, 'Tra Quattro e Cinquecento', 33. On marriages arranged by the dukes: Gamberini, 'I piedi e le tibie dello stato'.

(<sup>14</sup>) A rich directory, relating to various cities of the *stato*, is preserved in the ASMI, *Potenze sovrane a.*, b. 122 (thanks to Nadia Covini for pointing this out). On this list, see also Leverotti, 'Gli ufficiali nel ducato sforzesco', 59.

(<sup>15</sup>) Maire-Vigueur, *Cavalieri e cittadini*; Tanzini, *A Consiglio*.

(<sup>16</sup>) The cornerstone of Azzone's plan was, in fact, the peaceful coexistence of Guelph and Ghibelline. Cf. Somaini, 'Il binomio imperfetto', in particular 143.

(<sup>17</sup>) Regarding the Po Valley *signorie* in the early fourteenth century, see Rao, *Signori di popolo*.

(<sup>18</sup>) This feature of Azzone's policy is observed by Del Tredici in his essay, 'La popolarità dei partiti'. On organization by *squadre*, see Gentile, 'Factions and Parties: Problems and Perspectives', and idem, ' "Postquam malignitates temporum hec nobis dedere nomina ... " '. On how each faction proceeded to designate the list of its own counsellors, see the exceptionally well-documented case of Parma in the late fifteenth century, reconstructed by Gentile, *Fazioni al governo*, 243 ff. and Arcangeli, *Gentiluomini di Lombardia*, 386. Since factions in the cities had a kind of 'legitimacy', factional ties among families proved very stable. With regard to a different area, cf. Connell, *La città dei crucci*, 62–3.

(<sup>19</sup>) Examples in Giraudo, *Sperimentazioni sovrane per le città del Regnum Italicum*, 111.

(<sup>20</sup>) Del Tredici, 'La popolarità dei partiti'.

(<sup>21</sup>) There, too, as in Tortona, where factions actually resembled *alberghi alla Genovese*—an organizational structure in which several families linked by blood or a common interest banded together—rather than a more 'open' grouping, the logic of aristocratic distinction fostered by the lords of Milan seems once again to be the basis of the local political system. Regarding all these aspects and for a general survey of the factions in the domain, see Arcangeli, *Gentiluomini di Lombardia*, 372; Gentile, 'La Lombardia complessa'.

(<sup>22</sup>) Gentile, *Terra e poteri*, 46.

(<sup>23</sup>) Del Tredici, 'La popolarità dei partiti'.

(<sup>24</sup>) Only considering Milan, the *societas populi*, disbanded by Archbishop Ottone, were resurrected by the Torriani during their restoration, then disappeared again—this time for good—with the definitive return of Matteo Visconti, who initially had not seemed especially hostile towards them. Ghiron, 'La Credenza di S. Ambrogio', in particular 103–4.

(<sup>25</sup>) Cengarle, *Les maestà*, 27.

(<sup>26</sup>) Del Tredici, 'La popolarità dei partiti'. But on this point, see also Gentile, *Fazioni al governo*, 274.

(<sup>27</sup>) Gamberini, 'Il contado di fronte alla città', 201.

(<sup>28</sup>) Gamberini, 'Cremona nel Quattrocento', 31-2. There was a similar situation in Piacenza, described by Bellosta, 'Le squadre in consiglio', 29. The social mobility guaranteed by the factions could also cause a certain amount of inconvenience. Some observers noted how in the council of Parma in 1475 there appeared 'many simple men who are ignorant and are not expert in the things of the commune, and they do not know how to read and write'. As to why 'some *minori*, without either education or experience' were elected, the answer was clear: they only did 'what the electors wanted of them'. Cf. Gentile, *Fazioni al governo*, 219. Also Arcangeli, *Gentiluomini di Lombardia*, 390-1.

(<sup>29</sup>) For Oberto Pallavicini's petition, cf. Gentile, *Fazioni al governo*, 74.

(<sup>30</sup>) The passage of the statute is transcribed by Leoni, 'Fonti legislative e istituzioni cittadine', 314. Gentile notes, however: 'The following events (as well as the comparison with other realities, such as Parma) leave room for doubt that the petition [or the reaffirmation of an eminently territorial-based electoral system] remained largely on paper.' Gentile, 'Dal comune cittadino allo stato regionale', 278.

(<sup>31</sup>) In 1355, Bernabò Visconti acknowledged the right of the factional leader Giovanni Ponzoni to have the same number of counsellors in the council as Ponzino, *pater suus*. Noted by Leoni, 'Fonti legislative e istituzioni cittadine', 316.

(<sup>32</sup>) Gentile, *Fazioni al governo*, 74.

(<sup>33</sup>) In the second half of the fourteenth century, in some cities, there were fierce clashes between the territorial aristocracy and a civic and *decurionale* (i.e. pertaining to the commune) elite. One example is Reggio Emilia: Gamberini, 'La nobiltà del pastore', 77-8. More generally, see Castelnovo, *Être noble dans la cité* and Mineo, 'States, Orders, and Social Distinction'.

(<sup>34</sup>) Citations from De Luca, 'Tra Quattro e Cinquecento', 28; Donati, *L'idea di nobiltà*, 3-51.

(<sup>35</sup>) 'De melioribus, ditioribus et utilioribus ipsius civitatis'. *Statuta iurisdictionum Mediolani*, XIV, 16. The statutes are known to us through the redaction of 1396. However, the section regarding bodies of assembly seems to refer to the statute of 1351, as evidenced by the reference to the figure of *dominus* and not to that of duke, even though the latter had appeared in 1395, a year before the promulgation of the statute. On the institutional profile of the commune of Milan in these years, see also Vismara, *Scritti di storia giuridica*, 3,

*Le istituzioni del patriziato milanese*, 227 ff. Santoro, *Gli uffici del comune di Milano*, 77; Cognasso, 'Istituzioni comunali e signorili', 456 ff.

(<sup>36</sup>) 'De melioribus et idonioribus et prutentioribus'. *Statuta iurisdictionum*, XII, 15.

(<sup>37</sup>) 'Descriptis in zedulla presentibus introcluxa, quos putamos esse sufficientes et utiles non solum ad conservacionem, verum eciam ad augmentationem honoris nostri status et rei publice Cremone'. The decree is transcribed in Gualazzini, *Gli organi assembleari*, 34 note 11, also 40. But for a correct interpretation of the reform, cf. Gentile, 'Dal comune cittadino allo stato regionale', 280-1.

(<sup>38</sup>) In Brescia, too, the reform of the bodies of assembly promoted by Bernabò identified the *meliores* as those who most respected the honour of the *dominus* and the *bonum commune statum dicte civitatis*. Cf. Pagnoni, *Brescia viscontea*, 118.

(<sup>39</sup>) 'Consilium magnifici et excelsi domini domini Bernabovis Vicecomitis, domini generalis Cremone etc. et hominum terre Cremone'. Gualazzini, *Gli organi assembleari*, 40-1.

(<sup>40</sup>) De Luca, 'Tra Quattro e Cinquecento', 37.

(<sup>41</sup>) 'De melioribus, sufficientibus, minus partialibus [sic], minus cavilosis, magnisque diligentibus'. Gualazzini, *Gli organi assembleari*, 86. 'Pro quolibet squadra ... de melioribus et minus cavilosis magisque adamantibus statum nostrum et civitatis nostre predicte'. Ibid.

(<sup>42</sup>) Gamberini, *La città assediata*, 70-1.

(<sup>43</sup>) Also considering the turbulence that the parties had been involved in in previous years, when, with the collapse of the ducal government, each one tried to prevail over the others. Regarding Filippo Maria's policy towards the factions, see Gentile, ' "Postquam malignitates temporum hec nobis dedere nomina ... " ', 255. Also idem, 'La Lombardia complessa'. In Cremona, Duke Filippo Maria had restored the system based on equitable division of the seats between the *squadre*, but he was also correspondingly cautious in sending a good number of members of each faction into territorial confinement. Gamberini, 'Cremona nel Quattrocento', 12.

(<sup>44</sup>) In reality, in Bergamo the duke had already expelled the Guelphs in 1427, at the outbreak of hostilities with Venice. Gentile, ' "Postquam malignitates temporum hec nobis dedere nomina ... " ', 265.



(<sup>45</sup>) 'Pro tertia parte ex habentibus ampliores facultates, pro tertia ex mediocribus et pro reliqua tertia ex minoribus'. Transcription of the decree in *Antiqua ducum Mediolani decreta*, 286–7.

(<sup>46</sup>) 'Magis recti, magisque apti ... ad gubernanda, beneque gerenda negotia'. Ibid.

(<sup>47</sup>) Bellosta, 'Le squadre in consiglio'. Citation from 7.

(<sup>48</sup>) Ibid.

(<sup>49</sup>) Cf. Gentile, *Fazioni al governo*, especially 177, 249.

(<sup>50</sup>) A comprehensive study of this theme is still lacking today. Mentioned in Arcangeli, *Gentiluomini di Lombardia*, 376; Gentile, *Fazioni al governo*, 98. Also Covini, 'Le difficoltà politiche e finanziarie', in particular 84–5, and Canobbio, 'Christianissimus Princeps', especially 310–11. My thanks to the latter, to whom I owe the report of an attempt made in 1466, following the death of Francesco Sforza, to restore the chapters of the Holy Union of 1439 in Como. Also referred to by Rovelli, *Storia di Como*, III/1, 323. Regarding the case of Pavia: Mattarozzi, *Oltre le fazioni*.

(<sup>51</sup>) Andenna, 'Aspetti politici della presenza degli Osservanti in Lombardia', 333. But on the relationship between the dukes and the friars of Observance (Minor and Preachers) see also Fasoli, *Perseveranti nella regolare osservanza*; Gentile, *Fazioni al governo*, 284; Rossetti, 'Una questione di famiglie'.

(<sup>52</sup>) Grillo, 'The long life of the Popolo', 228; Del Tredici, 'Il partito dello stato', 34–5.

(<sup>53</sup>) Arcangeli, 'Milano durante le guerre d'Italia', 243.

(<sup>54</sup>) Gualazzini, *Gli organi assembleari*, 55 ff., 145 ff. For demographic data on the Lombardy cities of this era, cf. Ginatempo and Sandri, *L'Italia delle città*, 75. Regarding the different contributive capacity of the cities in the domain, see 'Entrate e uscite del ducato di Milano nell'anno 1388'.

(<sup>55</sup>) Arcangeli, *Gentiluomini di Lombardia*, 391 note 101; Gentile, 'La Lombardia complessa', 13.

(<sup>56</sup>) This is what happened in the cities of Lombardy after the death of Gian Galeazzo, when the duchy collapsed. As Gentile observes, 'it cannot be objectively argued that the exit from the ducal and Milanese orbit of places such as Piacenza, Cremona, Parma, Lodi and Como was mainly due to popular movements and genuinely inspired by the restoration of communal liberties.' The outcome of these upheavals was not the rebirth of free communes but the establishment of local *signorie* led by aristocratic rulers (Ugolino Cavalcabò in

Cremona, Antonio Fissiraga in Lodi, Franchino and Loterio Rusca in Como, etc.). Gentile, 'La Lombardia complessa', 8-9.

(<sup>57</sup>) Bartolo, moreover, had already observed: 'cum dico populum, comprehenduntur plebei et ignobiles tantum'. Citation from Donati, *L'idea di nobiltà*, 5. But on the ambiguity of the term *popolo* in the late Middle Ages, see first of all Savelli, 'Sul concetto di popolo'. Cf. also the collection of essays *Essere popolo*. On the *Popolo*'s governments in the late Middle Ages cf. Shaw, *Popular Government and Oligarchy*. For Milan and Lombardy, finally, see Arcangeli, 'Milano durante le guerre d'Italia', 239, which comments that the term *popolo* in contemporary sources in the early sixteenth century can indicate both the *popolo minuto* (i.e. the less well-off) and 'everyone that does not fall into the opposite category of gentlemen (such as citizens and merchants)'. Also *eadem*, 'Cambiamenti di dominio nello stato di Milano', 55 ff.

(<sup>58</sup>) An aspect well-described by fourteenth-century jurists, from Bartolo to Alberico da Rosciate, who, in the matter of nobility, emphasize the primacy of the city statute (and hence local custom) with respect to the *ius commune*. Donati, *L'idea di nobiltà*, 4.

(<sup>59</sup>) On this theme, see Della Misericordia, 'Distinzione aristocratica', with observations that can also be applied to the cities. With regard to the title of gentleman, he says: 'Being a gentleman, in short, was not what distinguished a castle lord from a nobleman in town, but what the former and the latter had in common.' An example of a Milanese gentleman who could not be included in the category of castle lords is Giovan Tommaso Piatti, whose story is related by Covini in 'Essere nobili a Milano'. For Machiavelli (*Discorsi sopra la prima deca di Tito Livio*, I, 55) the gentlemen of Lombardy are those who 'live on a private income, command a castle and have subjects that obey them'. Cf. also Arcangeli, *Gentiluomini di Lombardia*, XIII ff. For this category of gentlemen, Lombard sources also use the word 'magnate', of clear communal origins. Cf. Covini, 'La bilancia dritta', 218, with examples from Pavia. On these two distinct groups of gentlemen, the simple nobles and the magnates, see also the contributions collected in the volume *Famiglie e spazi sacri nella Lombardia del Rinascimento*, in particular those of di Arcangeli, '“Eligo sepolturam meam ... ”', especially 244 ff.; Rossetti, '“Arca marmorea elevata a terra per brachia octo”'; Buganza, 'I Visconti e l'aristocrazia milanese tra Tre e primo Quattrocento: gli spazi sacri'.

(<sup>60</sup>) With regard to this theme, one well-studied case is that of Pavia: Porqueddu, *Il patriziato pavese in età spagnola*, 564 ff.

(<sup>61</sup>) Donati, 'Il patriziato e le sue istituzioni', 1042. What was meant by *arte vile* was a matter for the college itself to decide.

(<sup>62</sup>) Arcangeli, *Gentiluomini di Lombardia*, 390-1; Gentile, *Fazioni al governo*, 273.

(<sup>63</sup>) In Parma in 1490, the *ospedale Rodolfo Tanzi* experimented with a reform, inspired by Bernardino da Feltre, replacing the *squadre* government with that of six citizens, including *duo doctores, duo mercatores, piazexi*. Gentile, *Fazioni al governo*, 271.

(<sup>64</sup>) Arcangeli, 'La città nelle guerre d'Italia'.

(<sup>65</sup>) Arcangeli, 'Milano durante le guerre d'Italia', in particular 250–1.

(<sup>66</sup>) Mentioned by Donati, *Il patriziato e le sue istituzioni*, 1044. Still within the framework of the reforms promoted by the French sovereign in 1516, the General Council was reduced to 150 members, to be elected from 'amongst the noblest and most prudent' of each district by an assembly of 24 *gentilhomini*. Ibid. Other sources of the period refer to the XII as individuals chosen *de nobilioribus*. Cf. Arcanegli, 'Milano durante le guerre d'Italia', 253.

(<sup>67</sup>) A city in which, as has already been mentioned, civic responsibilities were conferred by the prince. It is no coincidence that for Milan it was possible to emphasize the role that relations with the court played between the sixteenth and seventeenth centuries in the definition of urban social hierarchies. Cf. Signorotto, 'Lo Stato di Milano in età spagnola', 14 ff.

(<sup>68</sup>) On the disappearance of the word 'patrician' in Milan see Arcangeli, '“Eligo sepulturam meam ... ”', 240–1, for whom, however, 'It is necessary to free ourselves in a definitive manner from the misunderstanding of considering the patriciate, defined by the requirements of access to colleges or by effective participation in civic magistratures, as the highest level in urban society, higher than titled gentlemen, and not as what it actually was. And that was a group that was distinguished from the judicial nobility and/or the very rich in that it was composed of those who originated (*oriundi*) in the city and the Milanese territory who had abstained for a number of generations (increasing over time) from the exercise of the so-called *arti vili* (the definition of which also changes over time).'

(<sup>69</sup>) Arcangeli, 'Milano durante le guerre d'Italia'. During the French era, the consultative convocations of the colleges were assisted and sometimes replaced by the convocation of territorial representations (on a parochial basis) with more active goals. By the end of the period, however, these representations were already no longer called upon for fiscal purposes, and this continued after the restoration of Francesco II Sforza, when parishes were given only administrative tasks and the organization of military recruitment. As for the subsequent imperial occupation, 'parish assemblies are the unfortunate but necessary reference of the oath of fidelity, although the desire is evident on the part of the imperial captains to evade this example in favour of councils or magistratures with more limited numbers.' Ibid, 256.

(<sup>70</sup>) See *Guelfi e ghibellini nell'Italia del Rinascimento*.

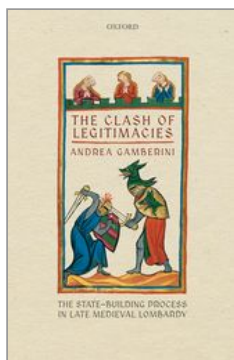
(<sup>71</sup>) These aspects are well described by Del Tredici, 'Nobility in Lombardy', 478 ff.

(<sup>72</sup>) The *more nobilium* way of life was already, in the second half of the sixteenth century, one of the fundamental parameters in the proof of nobility debated before the *Collegio dei giureconsulti* in Milan. Cf. Vismara, *Scritti di storia giuridica*, 3, *Le istituzioni del patriziato milanese*, 249 ff.

(<sup>73</sup>) The letter is mentioned by Donati, *L'idea di nobiltà*, 55.

(<sup>74</sup>) Ibid.

(<sup>75</sup>) As Arcangeli notes, the lists of *meliores* produced in this era 'conceal, in harmony with the ideology of patrician egalitarianism, the hierarchical order of families'. It can be seen that in these lists 'professional colleges precede titled nobility, the military is of no account, and kinship groups vanish in fragments throughout the various categories'. Arcangeli, 'La città nelle guerre d'Italia', 50.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## The Territorial Aristocracies

Pressure from Below, Organization from Above

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### Abstract and Keywords

This chapter looks into the political culture of landed aristocracy and explores how it changed over time following the advent of the princely state. The discipline imposed by the prince on the nobles involved, at least in principle, burdensome renunciations, which included the abandonment of all those aspects of noble culture incompatible with the culture of the principality, starting with *ius ad bellum*, the right to carry weapons freely, the possession of *castra* (fortresses of various sizes) and fortalices, with associated government prerogatives, ritual violence, and so on, none of which rights were acknowledged by the prince. This gave rise to tension and conflict.

*Keywords:* Private war, violence, noble, castle, power

The culture of individual distinction, which the Visconti and the Sforza fostered in the domain, met the ambitions of certain classes only up to a certain point—classes such as the territorial aristocracies, which considered themselves the highest level of local society. Soon it became clear that the price asked of them for their being elected as ducal representatives, and for them to be legitimized in their prerogatives of domination, was not a generic agreement with the lords of Milan, but the renunciation of all those aspects of aristocratic identity incompatible with the new culture of the principality.

It was the military ethos of the castle-owning aristocracy, at least as it had developed up to that point, that came to be questioned by the growth of the regulative capacity of the lord of Milan. In a domain such as that of the Visconti—Sforza, in which the issue of peace was linked with increasing rigour to the ideology of the regional state, and in which the role of the prince tended to become more and more intrusive, the first areas to shrink significantly were the spaces allowed to aristocratic violence. Even in 1326, a small prince in the Po Valley area, the Marquis of Monferrato, Teodoro Paleologo, still presented wars between castle lords as a legitimate prerogative, distinguishing indeed between the various forms of war—war intended to inflict harm, war intended to conquer a castle.<sup>1</sup> But these wars soon became the target of an all-out offensive by the Visconti. With the powerful reinforcement of guidance from leading jurists—including Giovanni da Legnano and Martino Garati—who wished to restrict *ius ad bellum* to sovereign powers (the two universal authorities, princes and city-states), the lords of Milan openly demanded a monopoly on war. Territorial aristocracies would be acknowledged as having a role in the context of such a monopoly, but only in connection with the prince, on whose behalf they could act as *condottieri* or as officers.<sup>2</sup> No autonomous military capacity was therefore acknowledged to social actors, on whom the Visconti intended to exercise increasingly tighter control.

The right to war thus became a cause of great tension between lords and aristocracies, as the sources imply—the latter's silences, in fact, are no less eloquent than the extremely careful vocabulary they deploy.

**(p.159)** Aware of the fact that the first step in defeating a competing political culture was to deny its existence, the prince and his officials denied that warfare was waged within the domain. In the ducal correspondence, as well as more generally in the acts of chancellery, the term 'war' is never associated with aristocratic violence. At the very least, this is referred to as *rixae*, an expression already used in Thomas Aquinas's *Summa theologiae* to indicate a clash unauthorized by public power. The only conflict the *doctor angelicus* was willing to acknowledge (at least under certain conditions) as fully legitimate and deserving of the designation *bellum* was in fact one fostered by the state.<sup>3</sup>

Faced with this rigour, the reaction of the lords of castles was generally that of a proud affirmation of status, which was first of all channelled through an explicit claim to a right considered to be specific to their own class. Even amongst growing difficulties, linked to the lifestyle imposed by the dukes, the nobles continued to wage war, profiting perhaps from moments of weakness in the dynasty or making use of a confrontation between major powers as a cover for their own activities. And not only that—they had no hesitation in openly employing the terms *guerra* and *bellum* to denote the conflicts in which they were involved. These are expressions that are used both in contemporary

chronicles and in those documents (such as occasional peace agreements) directly attributable to the initiative of the *milites*.<sup>4</sup>

On closer inspection, many urban and rural communities also advanced certain clumsy claims with regard to *ius ad bellum*, but the circumstances in which this happened, far from casting doubt on the tendentially exclusive relationship between aristocracies and war, instead only provided confirmation. While villages and cities appropriated *ius ad bellum* only in the absence of a state power,<sup>5</sup> the castle nobles seized every opportunity to reaffirm what they considered their own class right, sometimes openly challenging the prohibitions of the prince.

It was not, of course, an easy thing to oppose the authority of a prince, so it is not surprising to find some examples of acquiescence, in terms not just of practice, but also of idealities. If, still, at the end of the fourteenth century, the right to bear arms (in some cases even those of war, such as the lance) was a mark of status allowed by the Visconti to all the nobles, who were required only to remove them once they entered the city,<sup>6</sup> a century later this right had become a privilege granted individually by the duke. It was accepted by important sections of the elite—who, in fact, even seemed to compete for such a desirable sign of recognition. In the era of Francesco Sforza and his son Galeazzo Maria, whoever enjoyed the favour of the prince could carry arms even in his presence, but the number of concessions was **(p.160)** limited. While, on the one hand, this demonstrated the culture of distinction discussed in the previous chapter, on the other it launched a competition revealing the acceptance, at least by some branches of the aristocracy, of a courtier culture, which recognized in the duke (and not in membership of a particular class) the primary source of a number of privileges.<sup>7</sup>

The story of the Milanese noble Giovanni Antonio 'Brusco' Crivelli is also in some ways indicative of this reconfiguration of identity: Crivelli requested the mediation of his relative Margherita, well-known in the circles of the duchess, declaring that he wished to leave the profession of arms—which was a professional activity but also a primary factor in terms of status—to enter the service of 'His Lordship' the duke.<sup>8</sup>

Naturally, this reconfiguration of identity was more difficult for those who possessed lands and castles in great number, but the siren call of the court became ever more persuasive during the course of the fifteenth century.

The right to arms and, more generally, identification with a military role, are nothing if not an aspect of the warrior ethos of the nobility that finds an important corollary in the aptitude for command of men and territories. And since, from the central centuries of the Middle Ages, lords of castles constituted the main instrument of domination and organization of the populace, the

possession of *castra* (fortresses of various sizes) and fortalices, with associated government prerogatives, also became a cause for confrontation with the prince.

It has already been observed how the 1394/1396 ducal concessions gave rise to a new, properly territorialized conception of princely power. This, within the confines of the domain, did not admit the existence of enclaves, except those directly connected to, and hence legitimized by, the duke, and laid the groundwork for a tight hold on the many centres of lordly power present in Lombardy. Truth be told, certain lords of Milan had already shown themselves to be intolerant of the competition of the castle lords: Bernabò was one, whose policy against castle owners provoked—at least there, as in Parma, where it did not remain at the level of a mere announcement—a genuine break with the local aristocracies, either deprived of the castle itself, or forced to live with a castle governor sent by the Visconti.<sup>9</sup>

While not giving up dispute and conflict completely, Bernabò's successors instead tried to use their political and military weight to convince the castle nobles to accept the principle of princely sovereignty, with the ducal title a powerful inducement. The instrument used in the context of this operation was that of the oblate fief. If this, it is worth noting, on the one hand allowed the local lords to preserve the castles and prerogatives of the domain, on the other it meant that the latter was derived by feudal concession of the prince. This entailed the consequent recognition of both the role of the prince as the supreme source of power and a conception of political subordination based on the *iurisdictio*.

**(p.161)** Precisely because of these implications, more than a few castle lords, as mentioned above, tried to escape the feudal code of behaviour imposed by the Visconti and the Sforza. It thus happened that those who were strongest militarily, or those situated at the borders of the state (and therefore able to use this condition as a bargaining point for a more favourable negotiation) often managed to win from the dukes a form of relationship that was less constrictive, such as *accomandigia*.<sup>10</sup> Although, in a rather similar way to the fief, this also had a contractual value, and despite the fact that, in *accomandigia* too, there was a distinction between a major party (the prince) and a minor party (the *dominus castri*), this form of political organization presented, in the eyes of the castle-owning aristocracies, superior advantages to those of the fief. In fact, although in a framework of reciprocal concessions and commitments marked by the asymmetry of the relationship (more often than not, for example, a castle lord was bound to peace and war according to the will of the prince and had to accept his garrisons in the *castrum*), the *dominus loci* avoided the process of homologation, which was gradually starting to involve the figure of the vassal. As, in 1474, Galeazzo Maria remarked to the *maestri delle entrate* (the financial



magistrates) that ‘the *adherentes* and the *colligati* are not at all our subjects, they are our peers and their rank is as ours’.<sup>11</sup>

Certainly, it could happen that actual balance of power would induce the prince to treat one or other *raccomandatus* as a subject, perhaps requesting some tax contributions, or the publication and observance of a ducal decree, or even the delivery of an outlaw to justice. Such episodes were not rare, a sign of the state power’s will to territorialize, which has been mentioned many times. They did not, however, invalidate the conceptual distinction between *accomandigia* and *fief*, between independence and subordination, which jurists continued to reiterate: while, as a vassal, a person was *sub iurisdictione*, the *raccomandatus* was instead placed under the protection of the prince.<sup>12</sup>

But there is more. *Accomandigia* opened up a path for the *dominus* to far broader recognition, which went beyond the bilateral version with the major party. The need for the ‘great powers’ to define not only their respective borders, but often their reciprocal areas of influence as well, led to agreements (the Peace of Sarzana of 1353, the Peace of Ferrara of 1427, the Peace of Lodi of 1454, etc.) in which each major party (such as Florence, Milan, Venice) also involved its own affiliates, which were thus recognized in their prerogatives by other states. For the *raccomandati*—lordly dominions of varying extent—it was a true ‘inter-state’ legitimation, one of ‘superior quality’ with respect to what could come from the individual ‘great power’ within whose boundaries these formations existed. For this reason, too, recent **(p.162)** studies have not hesitated to attribute the rank of ‘piccolo stato’ (small seigneurial states) to these *dominatus*, thus singling out a subject which, in that particular period of time, occupied a place higher than that of a simple rural lordship.<sup>13</sup>

Although the aspect most emphasized by research is the liberty of the *raccomandatus* (at least compared to the vassal), there is a second aspect of affiliation which is no less important, especially in relation to the present study. While vassalage involved the rewriting of the rights of the *dominus castri* and hence the insertion of the latter into the jurisdictional hierarchy with the duke at its head, *accomandigia* simply entailed the recognition of the power of the *dominus loci*, without any claim from the prince to be its source. This made it possible for the Visconti to make extensive use of affiliation even before the ducal investiture at the end of the fourteenth century.<sup>14</sup>

Through the political language that was very much his own, the lord of Milan therefore confirmed the prerogatives of dominion to the *raccomandatus*—prerogatives that could range from a maximum level, consisting of complete autonomy, to a minimum, involving simple ascendancy over the *homines*.

In both situations, however, the prince was careful about not being seen as the source of local power. In the first case, he merely recognized the autonomy of

the castle lord, whether expressed in terms of the authority of the *merum et mixtum imperium* or of that of *immunitas*.<sup>15</sup> In the second case, the *dominus loci* is confirmed only in the possession of the *castrum*, according to a formula that preserved the political dynamics *in loco*, where the bond between *dominus* and countryman was based primarily on the exchange of protection/obedience. In this case, too, Visconti refrained from setting himself up as the source of local power: at most, **(p.163)** he contributed to its consolidation, assisted by the insertion (usually at the request of the *dominus loci*) of a clause which required the countryman to stand night watch at the *castrum* (this, like other castle services, such as maintenance, was the very symbol of obedience to a lord, constituting proof of the bond with the *castrum* and hence the acceptance of the protection it offered).<sup>16</sup>

Apart from the form assumed by the relationship between the lord of Milan and the *dominus castri*, the impression is that the very existence of a formal link also ended up influencing the underlying level of relationship between the *dominus loci* and the countryman, fostering a process of redefinition of local political cultures. One highly indicative story is that involving the opposition between the Mandelli and the inhabitants of Pecetto, a community that in 1402 had been pledged by the Duchess Caterina to Ottone Mandelli in exchange for a loan of 8,000 florins. In 1420, it was then enfeoffed with the *merum et mixtum imperium* to the sons of Ottone. From that moment, the Mandelli began to expand their prerogatives of dominion, including the exercise of the highest jurisdictional prerogatives—not very differently from the way in which other new feudatories had also begun to proceed.<sup>17</sup> However, in a short period of time, these prerogatives became a cause of conflict with the *homines*. For a community accustomed to practising forms of negotiated justice, based on a settlement between the offender and the victim,<sup>18</sup> the right that the *dominus* now had of imposing fines on the perpetrators was perceived as something illicit. It was seen, indeed, as a true ‘act of corruption that, without compensating for the violence suffered, sparked the understandable retaliation of the victim or his relatives, provoking new damage to the community’.<sup>19</sup> The episode shows very well that what the community continued to expect from the *dominus* was an intervention in relation to the offender in order to give satisfaction to the victim (with a cash settlement, for example). They were not interested in a pecuniary punishment ‘that the offender pays to the legal expert for having brought about an abstract violation of law and order’.<sup>20</sup>

However, the Pecetto story revealed another aspect, namely that the ducal investiture could represent a suggestion to reshape local political relations not only for the *dominus*, but also for the *homines* themselves. In fact, faced with the feudal concession of Visconti in favour of the Mandelli, the *homines* interpreted **(p.164)** the investiture as a government mandate, which established and recognized a reciprocity of rights and duties between feudatories and men. In the complaint that the inhabitants of Pecetto addressed to the duke and his

officials, this pactual concept emerges clearly and derives from the oath of loyalty that the *homines* made to the neo-feudatory Mandelli. Recognizing the new status of their lords, the men of the community believed that their status as subjects had also changed, now formally tied to a synallagmatic conception of the political bond. In this context, therefore, the actual or alleged misbehaviour of the Mandelli—which, according to the countrymen, included the unjust detention of certain inhabitants of the area, the sending of incompetent and illiterate *podestà*, and a demand for illicit tax levies—constituted the basis for requesting the reparative intervention of the prince himself. With this, as a consequence, there would also arrive the authoritative endorsement of Visconti for the pactual concept put forward by the *homines*.

It was thus to avoid similar situations that other lords, in positions like those in which the Mandelli had found themselves, behaved in a different way, preferring to skirt the issue of the oath which, according to the letters of the duke, the *homines* were obliged to make to their new feudatory. A good example is the story of Pietro Maria Rossi, who, in taking possession of the fief of Berceto, recently granted by the Duke of Milan, did not want to receive the *sacramentum*, aware as he was that this act would reshape his relationship with the country dwellers.<sup>21</sup>

But things did not always go smoothly for the neo-feudatories. The men of Bellano and Varenna even demanded that the new lord, the ducal adviser Lorenzo Terenzi da Pesaro, approve their petitions before the community oath of loyalty, signifying not only a pactual obligation, but also one that was conditional on the acceptance of their requests.<sup>22</sup>

The *dominus/homines* relationship was not, however, only influenced by the redefinition, on a legal and formal level, of the relationship between the *dominus castri* and the prince. In a perhaps more indirect way, but no less effective, it was the very development of an increasingly integrated interstate system, culminating in the constitution of the Italic League following the Peace of Lodi (1454), that fostered the transformation of the organization and political culture of many rural lords. The League itself was the true triumph of a notion of legitimacy that rested on the mutual recognition of the protagonists (the major regional states: Florence, Milan, Venice, the pope, the King of Naples) and no longer on that of the two great universal powers. For the rural lords, it was also essential to assume a 'structure' of a state kind, in order to participate completely in that system. It was not enough to be recognized as actors on the stage of international relations, but it was also necessary to rethink the physiognomy of the *dominatus* (in terms of the territorialization of domain prerogatives, bureaucratic and administrative development, institutional growth, and fiscal practices) in order to guarantee the continuity that, **(p.165)** alone,

the figure of the lord or the prestige of the dynasty could not guarantee. In other words, they had to assume the rank of 'small seigneurial states'.<sup>23</sup>

Moreover, the Lombard rural lords knew well the working mechanisms of the 'great powers', and not only because they had observed them from the outside. The integration of the lordly *dominatus* in larger formations, in fact, enabled the *domini* of the Lombardy region to become part of the governmental structures of the duchy, whether as officials, as *condottieri*, or finally as advisers. Even a small lord such as Gabriotto da Canossa, possessor of no more than two or three castles in the Reggio area, could therefore be called by Bernabò Visconti to be *podestà* first in Milan, then in Cremona, and then in Brescia. But there is nothing exceptional in this particular example and many similar cases could be cited.<sup>24</sup>

This movement of personnel will also have to be looked at in order to understand the spread of state types of institutional model, in the awareness that *imitatio principis* does not exhaust the possibilities regarding the learning of government techniques and political ideals. As has been well observed, 'the reception of models from above does not automatically mean the reception of models from the centre.'<sup>25</sup> From this point of view, the analysis of pragmatic sources related to the Lombard lords of castles or their officials, such as letters, reveals not only a mastery of judicial categories, but also a knowledge of *auctoritates* of philosophical thought (such as the *Politics* of Aristotle). This was the sign of a more general cultural climate that will need to be taken into account in order to contextualize certain state-oriented developments more clearly.<sup>26</sup>

### Notes:

(<sup>1</sup>) Settia, 'Gli "insegnamenti" di Teodoro I Paleologo'.

(<sup>2</sup>) Covini, *L'esercito del Duca*, 61 ff. The ambition of the prince to represent himself as a military chief to whom the nobles gathered was well described by Lubkin, who notes, for example, the rituals organized by Duke Galeazzo Maria Sforza on the occasion of St George's Day. Lubkin, *A Renaissance Court*, 214 ff.

(<sup>3</sup>) Gamberini, *Oltre le città*, 109 ff.

(<sup>4</sup>) Ibid. Also Covini, 'Le condotte dei Rossi di Parma'.

(<sup>5</sup>) An aspect well described by Chittolini, 'Guerre, guerricciole e riasseti territoriali'.

(<sup>6</sup>) Gian Galeazzo's permission to nobles to carry weapons, even ones of offence, is noted in the *littera officii* of the captain of the *episcopatus* in Reggio Emilia: ASRe, Archivio del Comune, Registri dei decreti e delle lettere, reg. 1385-1389, ff. 55v-56r (year 1388, month and day lacking). Also according to a decree of 1385 to 'terreri terrarum nostrarum habentes merum et mixtum imperium' they were allowed to travel armed within the domain, but required to lay down their

arms when they came to an inhabited centre. *Antiqua ducum Mediolani decreta*, 95–6.

(<sup>7</sup>) Regarding the privilege to carry weapons in the presence of the duke—a much desired and fought-for honour amongst aristocratic families—see instead Rossetti, ‘“Arca marmorea elevata a terra per brachia octo”’, 189.

(<sup>8</sup>) Lubkin, *A Renaissance Court*, 124 ff.

(<sup>9</sup>) Gamberini, ‘Il contado di fronte alla città’, 204 ff.

(<sup>10</sup>) Historical and legal literature has, over time, become extremely extensive regarding this form of political relationship: see Soranzo, ‘Collegati, raccomandati, aderenti’; Petronio, ‘“Adhaerentes”’; Fubini, ‘“Potenze grosse” e piccolo Stato’; Peruzzi and Piergentili, ‘Accomandigie, patti segreti e negozi simulati’; Dean, *Land and Power*, 167–78.

(<sup>11</sup>) ‘Adherentes et colligatos nostros subditos minime esse, sed equales, idest simul nos valere.’ Chittolini, *La formazione dello stato regionale*, 78 note 101.

(<sup>12</sup>) Arcangeli, ‘Piccoli signori lombardi e potenze grosse’, 412. Arcangeli opportunely points out how in reality things became complicated in the case of those castle lords who were, at the same time, both feudatories and adherents.

(<sup>13</sup>) Aspects underlined by Chittolini, ‘Ascesa e declino di piccoli stati’, 487. Also id., *La formazione dello stato regionale*, 209 ff. The theme will be addressed further, but for a discussion of the category of ‘small seigneurial state’ see Cengarle, ‘Lordships, Fiefs and Small States’, 300–3.

(<sup>14</sup>) Examples relating to the conduct of Bernabò and Gian Galeazzo in the Reggio area in Gamberini, *La città assediata*, 126 and ff. and following notes.

(<sup>15</sup>) A good example was the *accomandigia* of Giberto da Fogliano to Gian Galeazzo Visconti. Fogliano presented a series of articles—which in fact constitute the proposal of *accomandigia*—with respect to which the lord of Milan expressed his *placet*. Amongst these was the request for confirmation of the *merum et mixtum imperium* regarding certain castles in the Reggio area, to which the Visconti consented. The text of adherence is transcribed in a judicial register of the commune of Reggio: ASRe, *Archivi giudiziari*, curie della città, Libri delle denunzie e delle inquisizioni, anno 1396–97, 1390 December 9, Milan. But the *accomandigia* of the brothers Carlo, Jacopo, and Beltrando da Fogliano, sons of Guido Savina, was very similar. They addressed Gian Galeazzo, recalling that in Bernabò’s time their dead father used to enjoy the use, from the *merum et mixtum imperium*, of certain lands and castles. Once again Gian Galeazzo confirmed the prerogatives required. Modena, Archivio privato Rangoni Machiavelli, filza 31, 1391 August 31, Pavia. In the case of the *accomandigia* of the brothers Guido, Francesco, and Feltrino Manfredi, still in the Reggio area,

Bernabò Visconti confirmed the authority of the *merum et mixtum imperium* over all the castles and the lands in their possession *de iure quam de facto*. An explicit testimony, then, of the will of Visconti not to enter into the merit of the legitimacy of power claimed by the *dominus castri*. The act (a proxy from Bernabò to his representative, Aronne Spinola) is in Milan, Archivio dei luoghi pii elemosinieri, Carteggi, 4.4., 1371 July 7, Milan. However, it is worth pointing out that in other contexts, such as the extensive version, *accomandigia* could itself be the source of the power of the *dominus castri*. This is the case of Niccolò III d'Este with Baccarino di Simone da Canossa, to whom d'Este 'tradit, concedit et confert the merum et mixtum imperium' over certain castles and lands. ASRe, Archivio del Comune, Memoriali del comune, vol. 1408-9, 1409 July 14.

<sup>(16)</sup> These aspects can be seen with reference to the thirteenth century and late fourteenth century respectively in Provero, *Le parole dei sudditi*, 261-2; Gamberini, *Lo stato visconteo*, 214; Chittolini, *La formazione dello stato regionale*, 102. An *accomandigia* that contains these clauses is, for example, that of Ugolino da Fogliano to Bernabò, who recognizes the ascription to the *dominus loci* of the possession of two castles and the obligation of the *homines* to stand night watch (a gesture of strong political significance). ASRe, Archivio del Comune, Provvigioni del consiglio generale, 1372-91, 1372 September 14, Milan. Similar in content is the *accomandigia* of Andriolo da Bismantova, who expressly asks Regina della Scala, Bernabò's wife, that his men be obliged to stand night watch. ASRe, Archivio del Comune, Registri dei decreti e delle lettere, 1373 January 24, Milan.

<sup>(17)</sup> As is the case with Anguissola a Riva, Grazzano, and Montesanto, in the Piacenza area. On this, see Chittolini, *La formazione dello stato regionale*, 149 ff., in particular 164.

<sup>(18)</sup> Similar to what happened in the Reggio area at the end of the fourteenth century: cf. part I, chapter 9.1.

<sup>(19)</sup> Cengarle, 'La comunità di Pecetto', in particular 113.

<sup>(20)</sup> Ibid.

<sup>(21)</sup> The episode is noted by Gentile, 'Giustizia, protezione, amicizia', 95.

<sup>(22)</sup> For this and other examples, cf. Della Misericordia, '“Per non privarci de nostre raxone, li siamo stati desobidienti”', 157-8.

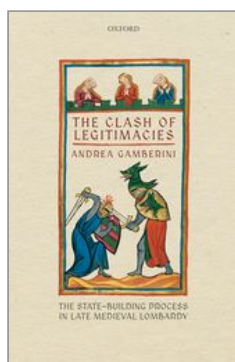
<sup>(23)</sup> Chittolini, 'Ascesa e declino di piccoli stati signorili', 476. From this point of view, an example of a small seigneurial state is certainly that of the Rossi in the Parma area, to which Gentile has drawn attention. Cf. Gentile, 'Giustizia, protezione, amicizia'. Also id., *Terra e poteri*, 69 ff. And many more examples

could be given. Despite the institutional growth of many *dominatus*, however, research has underlined the longevity—even in small, increasingly territorialized and bureaucratized states—of ties of a personal kind.

(<sup>24</sup>) Gamberini, *La città assediata*, 273 ff. Grillo, 'Carriere militari'; Covini, *L'esercito del Duca*.

(<sup>25</sup>) Della Misericordia, '“Per non privarci de nostre raxone, li siamo stati desobidienti”', 214–15. Also repropounded by Gentile, 'Giustizia, protezione, amicizia', 94.

(<sup>26</sup>) There is a study, to a certain extent pioneering, of the culture of some small lords in the Po Valley area in the second half of the fourteenth century by Novati, who first highlighted the practice of borrowing texts from the Gonzaga Library in Mantua. Novati, *Attraverso il Medio Evo*, 225 ff. But more recently also Gentile, 'Giustizia, protezione, amicizia', 93, who discovered amongst the manuscripts commissioned by Jacopo Rossi, *dominus* of a 'small seigneurial state', works such as the *Politics* and the *Nicomachean Ethics* of Aristotle.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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# The Foundations of Seigneurial Power in the Countryside

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### Abstract and Keywords

This chapter investigates the relationship between landed aristocracy and peasants in the later Middle Ages. The language of lordly power is no longer one of violence, just as its political culture is not that of the inferiorization of rural people. The emergence of the lexicon of friendship on the one hand conveying an idea of power liberated from its most brutal manifestations, on the other embeds that power within an explicit framework of reciprocity, in which obedience corresponds to the protection (military and fiscal) of the *dominus* and his mediation with central authorities (the duke). While this is a real re-establishment of the political bond on a consensual basis, it does not seem to generate shared representations: in fact, it is precisely the opposing elaborations that actors offer of the cause/effect nexus (which comes first, obedience or protection?) that reveal a clash between ideas with very different backgrounds.

**Keywords:** Friendship, lord of castle, peasant, rural community, power, obedience

Whatever the origins, rural lordships between the fourteenth and fifteenth centuries underwent a process of institutional growth, in some cases elevating themselves to 'small seigneurial states'. Yet, notwithstanding the variety of situations, one element seems to unite the various manifestations of seigneurial power in this era: the tendentially consensual relationship with the *homines*.



It is an aspect worth emphasizing, because it probably contains the most innovative element with respect to the relationship with the *dominatus* in previous centuries. The impression, in fact, is that the epochs in which the language of seigneurial power was that of violence, and its political culture that of the inferiorization of countrymen, were a thing of the past. Episodes of murders, rape, and beatings inflicted by the *dominus* on those who served him are increasingly rare in the sources, though these are much richer in content than those of previous centuries. Nor is there any trace of that ritual violence, consisting above all of sudden raids and forays, which in past times had been used to terrorize populations and to indicate the gap in status between the lord and his subjects.<sup>1</sup>

Even in the judicial sphere, where the coercive power of the *dominus* was cloaked by a legitimacy recognized by the *homines* themselves, seigneurial violence was checked or otherwise kept in line. The events—very distant in time and space—of the Mandelli in Pecetto and the Canossa in Quattro Castella show that in many communities the *dominus* did not have the power to inflict the *poena sanguinis* and that the only subjects liable to suffer seigneurial violence were foreigners—individuals, in other words, who did not belong to the community and therefore lacked protection.<sup>2</sup>

But there, too, as in the new states, in which the ‘little princes’ had succeeded in establishing a hegemonic form of penal system, their *arbitrium* found extremely rigid limitations in local statutes. These governed both procedure (deciding, for example, with great care, in which cases torture could be allowed) and the sentences handed out (including that of capital punishment).<sup>3</sup> In those issued in 1428 (**p.167**) for the lands of the Pallavicini, the *dominus* was forbidden to disregard the sentences issued by his own *rettori*, according to a concept of widespread, legalist princely justice, as seen in part II chapter 4.3, even in communities directly subject to the Duke of Milan.<sup>4</sup>

There were, naturally, exceptions to this picture, and significant incongruities might be found. Similarly, a close-up look will not be able to ignore the tensions that continued to exist within the relationship between *dominus* and *homines* (to be discussed next) and we are rightly advised to exercise caution in the face of overly conciliatory representations of power relations in the late medieval countryside.

And yet many elements exist that lead us to believe that the nature of the relationship between the lord and the countryman was profoundly transformed with respect to the past. Revealing details can be found in the lexis with which the protagonists now represent themselves and the political dynamics that bind them. Lords, for example, seem to have completely abandoned the hostile and threatening nomenclature of their distant predecessors in the twelfth and

thirteenth centuries, and we no longer come across figures known as Guastavilla, Malabranca, Manducalomini, or Appillaterra!

In fact, in relationships with the *homines*, a new emotional register appears—that of friendship. It is used by external observers, such as the Sforza official who, with reference to the political condition of some inhabitants of the Parma countryside, defines them as ‘of the friendship and will of the Rossi house’.<sup>5</sup> But the country dwellers themselves also made use of such terms, without having any intention of cancelling their status and thus the form of their relationship with the *dominus*. There is the case of a rural family group in the Parma area whose members defined themselves ‘friends and of the Rossi faction since time immemorial, and not servants or vassals of the Rossi’.<sup>6</sup> And then others, who designated themselves ‘friends and members of the Rossi faction and not men *de homincia*’ of the Rossi.<sup>7</sup>

Behind this latter phenomenon, it is possible perhaps to see a lexical contamination caused by factional ties, usually cloaked in the language of friendship. After all, those bonds in many areas overlapped with the traditional bonds between men and lords (as in the western part of Emilia), or even constituted the very foundations of the lord’s ascendancy over the community (as is often observed in the alpine and pre-alpine areas).<sup>8</sup>

However, the lexis of *amicitia* seems to shape the relations of subordination even in rural lordships which remained extraneous to the dynamics of the faction, as in **(p.168)** the case of the *dominatus* of Antonio and Niccolò Dallo in the upper Apennine area of Reggio at the end of the fourteenth century. Far from the city and in no way linked to the *squadre* system that dominated there, the two brothers ruled over communities such as Ligonchio and Piolo. Here, there was no trace of territorialization by faction, as instead was observed in the alps and in other areas of the Lombard lowlands, where Guelph lands and Ghibelline lands were a frequent presence.<sup>9</sup> And yet, it is precisely through the language of friendship that the Dallo indicate the men who, taking refuge in their *castra*, acknowledge their dependence: ‘their *amici* who take refuge in these aforesaid castles [those of the Dallo, in other words]’.<sup>10</sup>

The countrymen express themselves in similar fashion. Those of Gazzolo, a community in the Reggio area, insistently ask the prince for the withdrawal of an unappreciated measure ‘so that they have no reason to become adherents or to seek the friendship of some noble’.<sup>11</sup>

But the change of register in the lexis of this relationship between *domini* and *homines* is also echoed in the tone of political communication. Requested by the duchess to integrate the salary of the captain of Valtellina, the noble Antonio Beccaria summoned the men. Then, as he himself wrote to Bianca Maria Visconti, ‘I exhorted and prayed as much as I was able to have them pay’, but

they protested their poverty, 'and for this reason prayed to me that they would not want to be obliged to pay this money.'<sup>12</sup>

Similar tones were also to be found in the lowlands: when some residents of Riva, Grazzano, and Montesanto were asked to explain the nature of the relationship they used to have with the Anguissola, before the latter received feudal investiture over the three places, the men replied that they usually obeyed voluntarily 'et de bono amore'. The same feeling was conveyed by the *dominus castri*, who 'out of love towards those men did many services for them'.<sup>13</sup>

The Visconti enfeoffment in reality transformed the nature of the relationship between the Anguissola and the *homines*, reconfiguring its content. The 'mandata sine pena' (orders that do not involve a penalty for offenders) of former times were now replaced by orders that the men obeyed 'tamquam subditi' (as subjects).<sup>14</sup> Yet, even when the gentleman exercised the *merum et mixtum imperium* (for ducal concession, as in the case of the Anguissola, or for other reasons, as in the case of **(p.169)** the Rossi), the tone of communication was generally free from any kind of bitterness or severity. Ordering the *podestà* of Corniglio to levy a higher contribution than usual, Jacopo Rossi urged the official to speak to the countrymen 'cum bonis et melifluis verbis' so that they would prepare themselves 'libenti animo' ('in good faith').<sup>15</sup>

At other times, it is not words but gestures that give a sense of a friendly climate between *domini* and *homines*. To return to the story of the Mandelli in opposition to the community of Pecetto, a witness recalls that he noticed the *homines* several times eating, drinking, and having 'domestica conversatio' ('conversation without formality') with the *domini*. As Federica Cengarle observes, 'Drinking and eating together was a sign of forgiveness from the offended party.'<sup>16</sup> But perhaps it was something more, if even in the sixteenth century Baldassare Castiglione identified the 'domestichezza' ('affinity') between the gentlemen and their peasants as a characteristic of the 'region of Lombardy'. This was an intrinsic feature that the author of the *Libro del Cortegiano* found, for example, in the tendency of young people of different social extraction to play and dance together at festivals.<sup>17</sup>

The extremely widespread diffusion of gestures and words of friendship between the late medieval *dominatus* does not mean—and it is worth repeating this clearly—that the highly formalized *signoria* of the Rossi (certainly an example of a 'small seigneurial state') and the far more informal one of the Beccaria of Valtellina are comparable in terms of the power exercised over the *homines*. But it does mean that, in both, the consensual dimension of the relationship with the countrymen played a decisive, indeed, constitutive, role. It is no surprise, therefore, that Andriolo da Bismantova, in requesting recognition of his *dominatus* from Bernabò Visconti, made great play of the *unanimitas* that he

enjoyed amongst his men. The response of the lord of Milan appears entirely consistent: he consented to the request ‘*ipsa unanimitate durante*’ (‘as long as there is consensus’).<sup>18</sup>

To understand the foundations of *unanimitas* (or consensus) in seigneurial power, it might be useful to take as a starting point an episode that took place at the end of the fourteenth century and of which there is a vivid description in a judicial deposition. A witness recounts that the noble Andriolo della Palude, exponent of a family located in the Apennines between Parma and Reggio, came one day to the men of Gottano, Gazzolo, Vetto, and Cola, saying:

See you, that our most illustrious lord (Visconti) has conceded to me in fief the goods of Marco della Palude and desires that I have them free and exempt from tax and that I also have the vassals of Marco, with all his goods and rights and prerogatives and therefore I want you to obey me and to be obedient to me, just as I do (with Visconti) from the moment that I am his vassal.

**(p.170)** From that moment on, Andriolo continued, the *homines* would no longer have to take their salt from the gabelle of Reggio, nor pay taxes to the urban commune, because he would have them cancelled *de libris communis Regii*.<sup>19</sup>

The story makes it possible to grasp clearly the various levels on which the issue developed. On the one hand, there is the relationship between Andriolo and the lord of Milan, where enfeoffment confers legitimacy on the ambitions of Della Palude. On the other hand, there is the relationship between Andriolo and the *homines*, where, despite the attempt by the new feudatory to base their obedience on the Visconti feudal concession, there is an obvious effort to achieve ascendancy over the countrymen on more solidly consensual grounds, with Della Palude pledging to defend them from city taxation.

The research carried out in the 1970s by Giorgio Chittolini has already highlighted the importance that seigneurial protection assumed in activating and maintaining bonds within the domain. One case was that of the *signoria* of the Marquis Pallavicino di Pellegrino at Mercato (on the boundaries of the episcopates of Parma and Piacenza), where the *homines* preferred seigneurial dominion over that of the *civitas*, which cost them much more in taxes.<sup>20</sup> Another example is the previously mentioned villages of Riva, Grazzano, and Montesanto, where tax protection in favour of the communities was one of the cornerstones of Anguissola’s consensus, and was never really interfered with by the city commune.<sup>21</sup>

The great deal of research carried out, especially in the last fifteen years, has only confirmed those ideas: protecting the countryman from urban taxes,

suppressing or tempering the demands for collection that came directly from the prince, were all actions that helped lay the foundations of seigneurial power.

It was the large number of examples of such practices found in late medieval sources that prompted Chittolini to wonder whether the diffusion of rural lordships between the fourteenth and fifteenth centuries had in some way been fostered by the very processes of growth of the regional state and consequently by defensive mechanisms put in place by sectors of society that were the most affected.<sup>22</sup> It is certainly a valid question and in turn it generates another: and that is, if similar dynamics are not in reality observable at the apex of city-state development, around the crucial turning point of 1300 (which in many centres coincided with the triumph of the *Popolo*), when extremely high urban taxation and the expulsion of *milites* from the city created the conditions for the countryside to foster the revival of rural lordships that Chittolini himself identifies as characteristic of the fourteenth century.<sup>23</sup>

**(p.171)** Tax protection, frequently mentioned so far, was only one of the cornerstones of the rural *signoria*: the other, no less important, was that represented by the military protection ensured through the seigneurial *castrum*, which in time of war became a safe haven for the *homines* and their goods. Indeed, between the beginning of the fourteenth and the middle of the fifteenth century, instability was a constant element in almost all of the Lombard area under consideration here, fuelled either by the continual clashes between the cities and the regional states or by aristocratic wars.

From the alpine heights to the lowlands of the Po Valley, castles flourished throughout the urban *contadi*, beginning with that of the capital, Milan.<sup>24</sup> However, as a jurist of the times clearly states, not all castles were associated with the exercise of the *merum et mixtum imperium*: 'as is seen happening throughout all of Italy, there are many who have castles but who do not have jurisdiction.'<sup>25</sup>

Nevertheless, sources indicate the *castra* as the foundation of a very strong bond between *homines* and *dominus*, which under certain conditions also survived the exercise of *merum et mixtum imperium* by a competing power, such as that of the city or the prince. A Sforza observer, for example, noted this about the castles of the Rossi: 'the *homines* would repair in times of danger with all their things to these their castles, for which they were in perpetuity obliged to offer maintenance and stand guard within. And even when the jurisdiction and administration of the territory were removed, this right to accommodation and protection could not be withdrawn.'<sup>26</sup> The testimony is not limited to registering the protection/obedience exchange as a generating element of obligations for the country dweller, but goes further, indicating that the lord/countryman relationship would not even have been undermined by the intervention of the prince with the intention of attracting the major prerogatives of the domain

(expressed in terms of *iurisdictio* and *administratio*) to his own person. What the source seems to suggest, in other words, is that while the state of instability that induced the *homines* to *confugere ad castrum* of the *dominus* persisted, then the latter would maintain his ascendancy over them. This was such a clear fact to all the parties involved that no mystery was made regarding the stratification of powers thus produced: presenting his own men to Visconti, the noble Aloisio Dallo, who possessed castles but not complete jurisdiction, expressed himself in the following way: ‘*homines subditi dominationis vestre ex hominibus meis*’ (‘they are both my men and subject to your domination’).<sup>27</sup>

Looked at more closely, the political culture of *confugere ad castrum* shows other noteworthy aspects. Notwithstanding the criticisms of organicism that have often arisen against those who have insisted on the consensuality of the relationship of power created thanks to the *castrum*, there was very often a sense of tension, often quite powerful, around the content of the exchange and even around its ideal **(p.172)** assumptions.<sup>28</sup> I have already dealt with elsewhere, and therefore will not go into detail in these pages about, those peasants from the Reggio *contado* who, between the fourteenth and fifteenth centuries, were able to interrupt their subordination to the *dominus* whose *castrum* they used to retreat within, simply by deciding to *confugere* to the *castrum* of a neighbouring lord. This was an act that gives form to the idea, lucidly described by certain external observers as well, that refuge in a castle was a free and voluntary act: one which activated a political bond, which ceased when the countryman made the decision to seek safety in the fortalice of a different lord.<sup>29</sup>

The lords reacted against this way of reading the relationship of protection/obedience by trying to stabilize the bond with their own *castrum*, either by requesting pledges in exchange for protection or by imposing oaths on the occasion of land concessions.<sup>30</sup> They tried to relaunch a territorial conception of power on an ideal plane, which bound obedience to residence. Referring back to the principle *iurisdictio cohaeret territorio*, the dependence of the countrymen came from *domini* tied to the space that they (the countrymen) inhabited, and since that space was polarized by the *castrum*, the *homines* were obliged to give their obedience to the castle owner. According to this reading, protection was just one of the obligations deriving from the fact that the *homines* had to live in the *territorium* of the castle, while the defence ensured by the *castrum* itself was seen as the consequence of obedience and not as its premise.<sup>31</sup>

Certain scholarly reconstructions are prone to see in the insecurity of the times—and especially in that generated by the aristocratic wars—a propitious factor for the perpetuation of aristocratic dominance alone.<sup>32</sup> However, the story just mentioned shows that instability could also be an opportunity for the countrymen, who, though suffering the most devastating effects of the clashes, could also find in them the opportunity to redefine the terms of their obedience.

From this point of view, war seems to level out even the most significant morphological and residential differences, to the point where the Cremona lowlands of the mid-fifteenth century can offer scenarios that are extraordinarily similar to those of the mountains in the Reggio area of the late fourteenth century. In the midst of the war between Milan and Venice, many peasants sought shelter in the castles of local lords and continued in their obedience to them even after the end of hostilities. This was a humiliating blow for the commune of Cremona, which complained to the duke in the hope of restoring the territory's traditional city-centric districtization.<sup>33</sup>

**(p.173)** Protection, which has been emphasized so strongly in these pages, was therefore a central element in the creation of political ties, capable of abrading territorial conceptions of power, but also of prevailing over other activators of obedience. In many regions, for example, farmers and tenants continued to be politically subordinate to the owners, who sometimes exercised their seignorial rights very broadly. Where, however, as in Riva, Grazzano, and Montesanto, the *homines* were forced to seek the protection of a *castrum*, the bond with the owner of the land seemed to wane, overwhelmed by that with the *dominus castri*.<sup>34</sup>

Is it perhaps also because of this that, between the fourteenth and fifteenth centuries, agricultural pacts often contain clauses of subordination, their purpose to strengthen loyalty and render it exclusive. In 1377, for example, Guido Savina da Fogliano granted some land to a man from the curia of Carpineti, receiving in return, in addition to the payment of rent, obedience and the commitment to seek the protection of the castles of the *dominus*.<sup>35</sup> But elsewhere, too, the renting of land on the part of a *potens* might become an opportunity to strengthen the traditional ascendancy of the landowner over the concessionary. From the Piacenza area to the Valtellina, there frequently appear clauses binding the tenants to support the owners militarily when required.<sup>36</sup>

Moreover, the fact that the farmers were a sector of political support is also confirmed by the assessments of the Sforza officials. There was the case of Captain Alpinolo da Casate, who in 1481 describes the followers of the noble Giovanni Beccaria as being 'farmers such as they are his friends'.<sup>37</sup>

Certainly, however, these were not univocal relationships, which had to leave room for the farmers to manoeuvre and find opportunities. Bernardo de Uprando, who was constrained with various kinsmen to defend the lands of the Quadrio Ghibellines against the Guelphs,<sup>38</sup> was at the same time the concessionary of a vineyard belonging to a Guelph leader, Giovanni Beccaria.<sup>39</sup>

Faced with the mobility of the *homines* on a political level as well, some lords were also willing to make choices that were not highly rational from an

economic point of view, such as adopting a perpetual contract and renouncing the updating of customary fees, in order to hold on to the tenants.<sup>40</sup>

Rarer, but still in use at the beginning of the fifteenth century, were the contracts *de hominiciis*, such as the one made in 1417 between a rural dweller and the Canossa. At the gates of the castle of Bianello, he was obliged ‘iure fidelitatis et domini’ and on the gospels promised to the *dominus* Alberto and his heirs to be their *homo* and *fidelis* in perpetuity, subjugating himself and all his male offspring. He then pledged to preserve and defend Canossa’s property, his jurisdictions, and **(p.174)** his rights, and not to attack, or plot against, the *dominus*, but rather to reveal any such plots of which he should become aware. He promised to protect any secrets he should come to know, to stand guard at Alberto’s castles both day and night, to stay and live under his domination and within his *signoria* and not to abandon the domain of Alberto and his successors unless explicitly given licence to do so. He further accepted that Alberto might arrest him with impunity and hold him in prison and claim all his property and rights in any place whatsoever in the province of Lombardy.<sup>41</sup>

There are sporadic references to the *hominicia* in the Parma area as well, but the absence of findings in other territorial contexts suggests that these forms of submission should be seen as a rather residual phenomenon.<sup>42</sup>

Certainly, it is the unidirectional nature of the commitments, for the benefit of the *dominus* alone, that is so striking in the *hominicium* quoted above. Only between the lines—where the safekeeping of the castle is evoked—is it possible to glimpse a reference to the protection guaranteed to the *fidelis*. The aspect that instead characterizes the many facets of seigneurial power in the late Middle Ages in Lombardy is usually the bivocal commitment with the *homines*, the true key to the extraordinary success of the *dominatus*. From this point of view, the recourse to the lexis of friendship to represent the *homines/dominus* obligation not only reflects a less authoritarian form of government than in the past, but above all indicates the dimension of reciprocity. Cicero himself placed this at the heart of the bonds of friendship, theorizing that ‘there is nothing more pleasant than the exchange of attentions and favours’ (*‘nihil vicissitudine studiorum officiorumque iucundius’—Laelius de Amicitia, 49.*)

Protection was therefore only one element—though in many contexts the main one—of the *multa servicia* that the *domini* offered their men in exchange for obedience. Another, by no means secondary, was the administration of justice, in forms ranging from the promotion of *amicabiles compositiones* to the exercise of hegemonic justice, in the awareness, well expressed by one of the many small fifteenth-century princes, that ‘ubi iusticia perit non est habitandum’ (‘in those lands where justice is dead, you cannot live’).<sup>43</sup>



To describe the kind of exchange that a lord was able to offer to his men, Massimo Della Misericordia proposed to borrow from social anthropology the distinction between first-order resources, possessed directly by the patron, and second-order resources, which are identified in the ability to relate to those with first-level resources and thus constitute the basis of the mediator's power.<sup>44</sup>

Reinterpreted in these terms, the condition of the great number of rural lords of the early fourteenth century can be defined essentially as that of patron, offering the countrymen first-level resources (military protection, lands, positions in the **(p.175)** castled territory, loans to the community, etc.). With the advent of the regional state, these exchanges did not become fewer in number, but the transformation of the political and institutional framework had an impact both on the *domini* and on the *rustici*. The former were intent on dealing with the erosion of their prerogatives of domain, while the latter were forced to confront the substantial expansion of the spaces of political interaction, obliged to dialogue with a distant and rather inaccessible power, such as that of the duke. Such a change of context, on the one hand, compelled the *domini* to rethink their collocation on the political scene, and on the other offered extraordinary opportunities to those lords who showed themselves able to occupy the channels of political communication between the centre and the periphery, or, to go back to Della Misericordia, those who were capable of changing from patrons into mediators (or at least of combining the two roles).

Even a superficial look at Visconti and Sforza documentation reveals the uninterrupted flow of petitions from *domini* to the duke with regard to individual 'friends' or entire *universitates*: to temper the rigour of ducal justice, to mitigate taxation, to obtain the replacement of an unpopular magistrate, to arrange the collation of an ecclesiastical benefice, etc. This was an activity that made it possible for the lords to re-establish completely or partially their legitimacy in the eyes of the countrymen, but also to obtain the recognition of the prince: the latter, not being able to govern the entire domain directly, had to place his trust in gentlemen with ascendancy over the communities. It was therefore to these local referents, known as *principales* or *meliores*, that the Visconti and the Sforza looked, in order to maintain peace, to receive information about what was happening in their own, or neighbouring, lands, and more generally to execute orders immediately that otherwise might come up against difficulties and resistance.

The mediators' ability was constantly subjected to pressures from above and below and, in order to preserve their role, lords were often forced to spend their own resources, perhaps advancing to the prince a sum he required from the communities, or contributing to certain expenses imposed on the *homines* by the state, as in the case of military lodging.<sup>45</sup>

Mediation, however, was not always successful, and repeated failure could also compromise the ascendancy of the *dominus* over the *homines*, or his credibility in the eyes of the prince. One, to some extent exemplary, event was the great revolt that took place in the Piacenza *contado* in 1462, when the inability of the feudatories to protect their men from heavy tax burdens imposed by the prince led to a general uprising and attempts by the communities to communicate directly with the Sforza, evading the useless filter of territorial aristocracy.<sup>46</sup>

Apart from this celebrated episode, the system as a whole seemed to absorb the tensions fairly well. Indeed, the very existence of an intermediary between the prince and the many peripheral areas of the domain created, at least within certain limits, a clearing house, in the absence of which more serious problems could arise. In fact, **(p.176)** it was the attempt by the lord of Milan to bring the territory under the full control of the city, evading the mediation of the lords, that seems to have been at the origin of another famous peasant revolt, this time in the Parma *contado* in 1385. The background to this uprising is to be found in the policy initiated by Bernabò Visconti, who decided to restore urban jurisdiction over the countryside, even at the expense of disgruntling a number of castle lords, either deprived of a fortalice or forced to live with a castle gubernator sent by Milan. The situation in the *contado* soon became explosive: the discontent of the lords was added to that of the country dwellers, increasingly burdened by heavy urban taxation. When, therefore, news spread regarding Bernabò's dethronement at the hands of his nephew Gian Galeazzo, many believed that the time had come for a redefinition of political and social structures. According to the chroniclers, the initiative was taken by the countrymen, who entered Parma in their thousands, looting and shouting out against the new taxes.<sup>47</sup> The few available sources omit any reference to the role of territorial aristocracies in those difficult moments, but judging from subsequent events it is difficult to imagine that they were wholly extraneous. Within just a few months, in fact, Gian Galeazzo restored to the nobles both their castles and the fiscal immunities they had enjoyed before Bernabò's revocations. This meant returning to an indirect control of the territory, something not even his successors thought it wise to change.

If, then, what happened in the Piacenza area in 1462 represented a peasant revolt against feudal mediation, the events in the Parma countryside of 1385 appear to have been animated by a spirit that was in some respects the converse. It was not by chance that it was resolved through the restoration of seignorial mediation, which the Visconti, not the countrymen, had challenged and revoked.

### Notes:

(<sup>1</sup>) Fiore, 'I rituali della violenza'.

(<sup>2</sup>) For events regarding the Canossa cf. part 1, chapter 9.3.

(<sup>3</sup>) Remarks in Greci, 'Norme e statuti dei piccoli stati padani'. As just a sample instance, see the statutes of Albinea and Montericco, dating back to the mid-fifteenth century. Cf. *Gli statuti dei conti Manfredi*, 36 ff. (for the reference to criminal matters). Some examples of hegemonic justice on the part of certain Parma lords (with the infliction of capital punishment) are noted by Gentile, 'Giustizia, protezione, amicizia', 93. Also id., 'Leviatano regionale o forma-stato composita?', 565–6. For the Piacenza area: Chittolini, *La formazione dello stato regionale*, 166–7.

(<sup>4</sup>) For the Pallavicini statutes cf. *ibid.*, 565–7.

(<sup>5</sup>) Cf. Gentile, 'Giustizia, protezione, amicizia', 95.

(<sup>6</sup>) 'Ab immemorabili amici et de amicitia et squatra seu parte nec non homines et vassalli of the Rossi'. Gentile, 'La formazione del dominio dei Rossi', 33.

(<sup>7</sup>) 'Amici et de amicitia et squatra seu parte nec non homines et de hominicia [of the Rossi]'. Gentile, 'Amicizia e fazione', 171.

(<sup>8</sup>) Della Misericordia, 'La "coda" dei gentiluomini'. For an example of the use of the lexis of friendship: *ibid.*, 289. Also Della Misericordia, *Divenire comunità*, 634. More generally, Gentile, 'Amicizia e fazione'.

(<sup>9</sup>) On the territorialization of factions in the alpine area: Della Misericordia, 'Dividersi per governarsi'; also Della Misericordia, *Divenire comunità*, 627 ff. But the phenomenon also involved other areas, perhaps at the margins of urban *contadi*: Zenobi, 'Nascita di un territorio'; Del Tredici, 'Il partito dello stato', 38 ff.

(<sup>10</sup>) 'Amici sui se reducentes in fortificiis predictis'. Gamberini, *La città assediata*, 115, 181.

(<sup>11</sup>) 'Ut non habeant causam sese adherendi seu sese ... amicandi et submitendi alquibus nobilibus'. ASRe, Archivio del Comune, Provvigioni del consiglio generale, 1418 September 1.

(<sup>12</sup>) The episode is reconstructed by Della Misericordia, 'La "coda" dei gentiluomini', 296. As Della Misericordia says, 'the Beccaria used to depict their relationship with their followers as a paternalistic one, imagined according to the logic of collaboration and reciprocity rather than the unilateral imposition of their authority.'

(<sup>13</sup>) 'Ob amorem quem gerebat dictis hominibus faciebat eis multa servicia'. Chittolini, *La formazione dello stato regionale*, 167, 170.

(<sup>14</sup>) *Ibid.*, 167–7.

(<sup>15</sup>) Gentile, 'Giustizia, protezione, amicizia', 96.

(<sup>16</sup>) Cengarle, 'La comunità di Pecetto', 115, following Sbriccoli, '“Vidi communiter observari”', 73 ff.

(<sup>17</sup>) Donati, *L'idea di nobiltà*, 43; Della Misericordia, 'Founding a Social Cosmos', 374; Gamberini, 'Between Continuity and Discontinuity', 10.

(<sup>18</sup>) Rombaldi, 'Carpineti nel medioevo', 163.

(<sup>19</sup>) 'Vidite, illustrissimus dominus noster ... mihi concessit bona condam Marchi de Palude in feudum et quod vult quod habeam ipsa libera et exempta et vassalos olim condam dicti Marchi una cum honorantiis et bonis dicti condam Marchi et sic volo quod amodo vos etc. sic me obediatis et sitis mihi obedientes, ita prout ego feci qui effectus sum vasallus domini etc.' The passage is taken from Gamberini, *La città assediata*, 113.

(<sup>20</sup>) Chittolini, *La formazione dello stato regionale*, 95 ff., in particular 136.

(<sup>21</sup>) Ibid., 169 ff.

(<sup>22</sup>) Ibid., 140.

(<sup>23</sup>) Milani has emphasized the ever-increasing, and therefore unsustainable, costs of the communal apparatus around 1300. Cf. Milani, 'Il peso della politica'. The expansion of the spaces of the rural *signoria* in the fourteenth century is evidenced by Chittolini, 'Signorie rurali e feudi', 615 ff.

(<sup>24</sup>) Gamberini, 'Il contado di Milano', especially 121 ff.; Del Tredici, *Comunità, nobili e gentiluomini, passim*.

(<sup>25</sup>) 'Ut videmus ad oculum per totam Italiam, multi sunt habentes castra qui non habent iurisdictionem.' Cited in Gamberini, *La città assediata*, 48.

(<sup>26</sup>) Gentile, 'Giustizia, protezione, amicizia', 95.

(<sup>27</sup>) ASRe, Archivio del Comune, Carteggio del Reggimento, 1393 March 10.

(<sup>28</sup>) The pactual significance of the protection/obedience exchange had already been described by Brunner, *Land and Lordship*, 218 ff. Algazi, *Herrengewalt und Gewalt der Herren* and Zmora, *State and Nobility in Early Modern Germany*, raised their voices against Brunnerian organicism.

(<sup>29</sup>) For all these aspects, see Gamberini, *Lo stato visconteo*, 203 ff.

(<sup>30</sup>) The pledge requested for protection is found, for example, in the statutes of the castled area of Montevetro. Transcriptions of certain chapters are in Badini,

'Le carte dei Canossa', 147. There is an example of land concession with clauses of obedience and castle protection in Rombaldi, 'Carpineti nel medioevo', 153.

(<sup>31</sup>) Gamberini, *Lo stato visconteo*, 215 ff.

(<sup>32</sup>) With reference to the Germanic world, this was an interpretative line taken up by Algazi, *Herrengewalt und Gewalt der Herren* and Zmora, *State and Nobility in Early Modern Germany*, 102 ff. There is criticism of this approach in Della Misericordia, *Divenire comunità*, 227-8.

(<sup>33</sup>) Gamberini, 'Cremona nel Quattrocento', 28.

(<sup>34</sup>) Regarding the power of the landowner over the farmers and the interference between this political bond and that created by the castle, cf. Chittolini, *La formazione dello stato regionale*, 172 ff.

(<sup>35</sup>) Rombaldi, 'Carpineti nel medioevo', 153.

(<sup>36</sup>) Andreozzi, *Nascita di un disordine*, 154; Della Misericordia, 'Dividersi per governarsi', 722-3; Chittolini, *La formazione dello stato regionale*, 172-3.

(<sup>37</sup>) Della Misericordia, *Divenire comunità*, 634.

(<sup>38</sup>) Della Misericordia, 'Dividersi per governarsi', 723 note 20.

(<sup>39</sup>) Prandi, 'La casa della torre di Pendolasco', 47 note 9.

(<sup>40</sup>) Della Misericordia, *Divenire comunità*, 169 ff.

(<sup>41</sup>) Finally, the parties turn to the bishop or his vicar to swear respect for the oath; ASRe, Turri, Canossa 40/1, 1417 August 26.

(<sup>42</sup>) For the Parma area, there is a mention in Gentile, 'Amicizia e fazione', 171.

(<sup>43</sup>) Noted by Gentile, 'Giustizia, protezione, amicizia', 94.

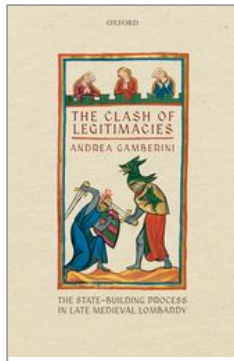
(<sup>44</sup>) Della Misericordia, 'La "coda" dei gentiluomini', following Boissevain, 'Manipolatori sociali'. Boissevain's proposal was also taken up in a historical context by Levi, *Centro e periferia*, 201.

(<sup>45</sup>) Della Misericordia, 'La "coda" dei gentiluomini', 283.

(<sup>46</sup>) The most recent interpretation of the Piacenza uprising is by Gentile, 'In search of the Italian "Common Man"'. But see also Andreozzi, 'La rivolta contadina del 1462'.

(<sup>47</sup>) Gamberini, 'Il contado di fronte alla città', 203-6. Moreover, as Chittolini observes, 'the hatred for, and intolerance of, the tax office and for the government of the duke and its magistrature chose the city as a first target',

given that the latter was used to offloading the bulk of the tax burden required by the prince on to the countryside. Chittolini, *La formazione dello stato regionale*, 141.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## Guelphs and Ghibellines

### Another Idea of Legitimacy

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### Abstract and Keywords

To find a political culture that was actually shared by rural lords and country dwellers, as well as by country and city, and aristocrats and prince, it would probably be necessary to look at that of the Guelph and Ghibelline meta-factions, capable as they were of activating ties of solidarity and a strong sense of obedience. More than the ideological component—although the contents of this evolved constantly throughout the fourteenth and fifteenth centuries and beyond—what generated membership of the parties was above all their role of mediation between environments at a distance from one another, such as the centre of the domain and its peripheries. The emergence of a new bureaucratically oriented state did not exhaust the spaces for political interaction and the Guelph and Ghibelline parties ended up monopolizing the exchange of particular resources: exemptions, pardons, ecclesiastical benefices for subjects, information and political support for the duke.

**Keywords:** Faction, Guelph, Ghibelline, lords, obedience, power

With the focus on the category of political mediation, it is possible to deal with a theme that has been mentioned here and there in the previous pages but not yet fully addressed: the extraordinary success of the Guelph and Ghibelline factions. These were structures capable of aggregating men, communities, urban and rural *squadre*, and lords, within a network of generally non-territorialized ties that, depending on the moment, presented themselves either as alternatives, or

as complementary, to the—territorial, in this case—structures promoted by city-states and regional states.

It has been noted that in Lombardy the names of Guelphs and Ghibellines appear quite a lot later than they do in the Tuscan area. If in the latter they are already attested in the second half of the thirteenth century, in the Po Valley region their diffusion occurs in the years of Henry VII's arrival in Italy. These new denominations were not, however, immediately to the liking of all the main figures involved. The Guelphs, in fact, were the first to designate the emperor and his followers as Ghibellines, arousing in the latter an initial reaction of resentment.<sup>1</sup>

Similarly, it has been pointed out that it is also impossible to identify the Guelphs *tout court* with the *Pars Ecclesiae* of the previous decades, since the Guelph party, in addition to the papacy, also comprised the Anjous and those parts of Florentine society linked to them.<sup>2</sup>

Above and beyond, however, how the Guelph and Ghibelline parties actually took over from the *Pars Ecclesiae* and the *Pars Imperii*, what is worth pointing out here is the creation, around the central decades of the thirteenth century, of new, transversal structures—those for which Marco Gentile has proposed the name of meta-factions.<sup>3</sup> These are entities that go beyond the enclosed boundaries of a city or territory, linking up a range of political and institutional levels, even those very distant from one another: the inner circle of one city with the expelled party of another, rural communities with great territorial princes, urban centres with great universal powers, and so on. For Giovanni Tabacco, this was one of the manifestations of what appeared to him to be the most significant innovation in mid-thirteenth-century Italy: the enormous expansion of the space within which **(p.178)** individual political actors were able to move and act.<sup>4</sup> There had been sporadic flexions in that direction previously (the phenomenon of infra-city leagues, the expansion of certain communes beyond their respective *comitatus*, the many implications underlying the circulation of *podestà*, etc.), but there is no escaping the acceleration of this expansionary movement that began taking place in the central decades of the thirteenth century. The emergence of new multi-city *signorie* and the development of meta-factions are, from this point of view, the two faces of the same coin. The political space was becoming broader and more interconnected, according to dynamics that, while on the one hand projecting local needs on a regional scale, on the other, satisfied these needs with resources (material and immaterial) that increasingly came from far afield. The effect was to create a closer connection between environments and levels that were often very distant from one another.

In this new world, which the factions themselves had colluded to create, Guelphs and Ghibellines demonstrated an extraordinary vitality, one that was not even extinguished by the construction processes of the regional states. The two *Partes*



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are frequently spoken of in the chronicles and documents of the fourteenth and fifteenth centuries, with real peaks occurring when public power passed through moments of difficulty (wars or dynastic crises).

In 1520, a famous report by Venetian ambassador Gian Jacopo Caroldo presents the state of Milan as a mosaic of kinship and territories identified above all according to whether they were of the Guelph or Ghibelline party.<sup>5</sup> It was Caroldo, too, who shed some light on the carefully cultivated traditions and rituals which made it possible for them to perpetuate factional identity and cement group solidarity. In many areas, Guelphs and Ghibellines already distinguished themselves by clothing: elements such as the colour of stockings, or the appearance of a hat, signalled from afar the political inclination of the individual, in a similar way to heraldic signs, where imperial eagles were set against lions and lilies. Elsewhere, instead, the ancient 1st of May festival of *calendimaggio* could also be reinterpreted along factional lines: so that on that day the *partesani* planted ‘Guelph trees’ (usually those with a male name, such as *olmo*, elm) and ‘Ghibelline trees’ (usually those with a female name, such as *rovere*, the durmast oak).<sup>6</sup>

The extraordinary persistence of *Partes*, still as vital as ever as the Middle Ages came to an end, therefore raises the question—a crucial one in terms of the perspective underlying this present work—of their legitimacy: with respect both to **(p.179)** those who were directly involved and to tendentially hegemonic actors such as the regional states.<sup>7</sup>

Seeking an explanation for the success of the factions only at the level of ideality—as has been tried—has not produced any particularly encouraging results. It was not that ideological density had by any means thinned down by the end of the Middle Ages: indeed, it is worth noting the capacity of political actors to reanimate the political programme of the *Partes*, thanks partly to the pen of some chancellor or of a particular literary figure. Between the fourteenth and fifteenth centuries, the association between Guelphism and *libertas* was close and continuous, with the latter taking on different meanings depending on the political period. Thus, for example, in mid-fourteenth-century Florence, as has already been seen, the liberty brandished by the Guelphs sets itself up as a republican alternative to Milanese tyranny. Just a few decades later, and for Bruni, Florentine *libertas* is embodied in Florence’s independence from the Empire. Another jump into the future, this time of almost a hundred years, and it is the pontiffs once again, now intent on expanding the boundaries of their temporal domains, who put themselves forward as the paladins of Guelph ideology—summed up by Letizia Arcangeli in the phrase ‘urban liberty in ecclesiastical liberty’.<sup>8</sup>

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A cornerstone of the Guelph ideologies, *libertas* is notably absent from the political lexicon of the lordly, and then ducal, chancellery. It is no coincidence that it reappeared on the Milanese scene at moments of breach with Visconti and Sforza tradition: respectively the Ambrosian Republic—whose leaders called themselves ‘captains and defenders of liberty’—and the advent of Louis XII, whose banners already promised freedom to the citizens of Milan.<sup>9</sup>

The formula that at the end of the fourteenth century the Visconti contrasted with Guelphic ideals was instead, as has been seen, based on welding together the theme of peace, the constitutional form of the principality, and Ghibellinism. But of course, in the Ghibelline world as well, the content of party ideology was fairly variable. In the early sixteenth century, when the emperor came once again to the fore, the Ghibellinism of the emperor was presented as a ‘universal monarchy that does not directly govern’, in a blatant attempt to appease local particularism.<sup>10</sup>

As has been noted, this was actually the swan song of the *Partes*, which, while maintaining a sense of identity on an ideal level in the tangle of alliances produced during the Wars of Italy, gradually began losing what held them together. It became not uncommon for those who shared the same party loyalties to find themselves on opposing sides in a military context.<sup>11</sup>

**(p.180)** With regard to the various ideal elaborations of this age, the poet Gaspare Visconti deserves a special mention. He was a prominent exponent of the kinship networks that the duchy had established, as well as a figure close to Duke Ludovico il Moro, and his unequivocal verse helped to characterize Ghibellinism as the party of the state. In reality, the tendency of each party to present itself as the whole was already apparent in the communal age, according to the dynamics of self-representation attested in the mid-fourteenth century. The innovation was that Gaspare’s Ghibellinism was no longer simply meant to be understood in terms of adherence to a party that had achieved its highest point in Italy in the Visconti, and then the Sforza, dynasty (as Gian Galeazzo claimed in his will).<sup>12</sup> Neither, more indirectly, was it adherence to the party that supported the Visconti and Sforza state. The poet’s Ghibellinism was now married to a much more impersonal idea, one that was untethered from a relationship with the dynasty and anchored instead on the pursuit of a *utilitas publica*. As has been observed, as gradually from the fourteenth to the fifteenth century ‘the *state of someone*, that is, the Visconti (and then the Sforza), passed into the *ducal state*, and then finally into the *state with public purpose* (justice), a new ideological connotation of one of the parties evolved, at least at the centre’.<sup>13</sup>

And yet, this very clarification touches in some way on what is the heart of the problem of Guelph and Ghibelline legitimacy. To what extent, in fact, were the idealities developed in spheres contiguous to the prince or in humanist circles

truly able to filter out into the peripheries of the state, influencing the identity processes and the dynamics of belonging of individuals and groups? And moreover: to what extent was ideological content, whether old or new, really at the basis of the consensus—which it does not seem reasonable to doubt—regarding the *Partes* system?

Research carried out on geographical areas often very distant from one another also showed that individual choice in the matter of factional militancy was decidedly marginal: in general, family tradition prevailed (not only in aristocratic circles) or, where factions were territorialized, the political leanings of the community of belonging.<sup>14</sup>

**(p.181)** The weak incidence of the ideological factor in terms of adhesion to Guelphism and Ghibellinism suggests, then, that the foundations of their embeddedness should be sought elsewhere. The first thing to investigate is the role played by the *Partes* in mediating communication and the exchange of resources within that broad political space that they themselves had contributed to creating. From this point of view, it is undeniable that for a long time the Guelph and Ghibelline meta-factions and the territorial states reciprocally contested the connection between different levels and environments. However, reflection on the reasons for the affirmation of the states over their competitors—to paraphrase the title of an important work by Spruyt<sup>15</sup>—can be left for another occasion. I would, meanwhile, like to emphasize, partly in the wake of important recent research, the complementarity and integration that came about in the Duchy of Milan between forms of political organization long presented as antithetical and incompatible.

The affirmation of a model of political organization of a tendentially bureaucratic and administrative kind—one based, that is, on a network of offices and officials that spread outwards from centre to periphery, with the task of conveying the prince's orders and gathering local resources—did not in any way exhaust the spaces of interaction.<sup>16</sup> It was the *Partes*, then, who seemed to be the preferred vehicle to carry out the functions of exchange of particular resources, such as pardons in judicial spheres, tax reliefs or reductions, ecclesiastical benefices, and information. To an *amicus* who requested Jacopo Rossi's intervention in arranging the funding of a priory, Rossi gave a telling response: 'I shall do it with great good will, providing all my support and aid.'<sup>17</sup> And the faction leaders always had an abundant supply of *speciales amici*, whether individuals, groups, or communities, for whom they were required to do their utmost.<sup>18</sup>

Conversely, the meta-factions also guaranteed for the Visconti, and then the Sforza, a privileged channel of communication with the territory, which could facilitate or hasten the carrying out of princely mandates, beginning with those involving areas that sources generally indicate as being the most difficult for hinterland officials to deal with: tax gathering and military mobilization. In this

case, too, any number of examples could be cited, but one recently studied, and truly emblematic, event offers a particularly good illustration, namely that of the defence of the highly sensitive border with Venice that ran along the central section of the Adda river. This was not, in the fifteenth century, entrusted to the system of fortifications and public **(p.182)** garrisons, but to the Ghibelline kinship network of the Monte di Brianza area and their followers, men who were always 'prompt to offer protection and defence against the enemy'.<sup>19</sup>

Meta-factions did not of course cease to put local figures in contact with external elements and circles at the boundaries of the duchy. There were, for instance—once again taken from a number of possible examples—the constant exchanges between the Brescian Guelphs on the one hand and, on the other, the Guelph leaders in the Po Valley area: first of all the Carraresi of Padua, and then, after the latter's downfall, the Serenissima.<sup>20</sup>

The *Partes*, however, deployed their potential for mediation primarily within the state, which was now the favoured area for political and social exchange. As lucidly noted by Della Misericordia, one of the consequences of the prevalence of the political state form over factions was that 'the area delimited by the territorial state was ... much more influential than, conversely, the space covered by Guelph and Ghibelline loyalties was important for the territorial state.'<sup>21</sup> And this was despite attempts by certain political actors to exploit the networks, languages, and identities of the factions in order to encompass the states themselves within a broader system of party relations.<sup>22</sup>

Within the domain, factional networks took on various forms. The Visconti and Sforza state aggregated territories with very different social and political structures, a fact that shaped the ways in which the exchange of resources took place and, in consequence, the very physiognomy of the factions. Depending on the area under consideration, the Guelphs and Ghibellines might appear as more or less hierarchical in structure, affiliated with the city *squadre* (as in western Emilia) or autocephalous (as in some areas of the *contado* of Milan), headed by important aristocrats or town elites, territorialized by areas either homogeneous (as in parts of the Lombard mountains and Monte di Brianza, where communities and kinships of different political leanings lived not mixed together but in compact areas coincident with administrative districts recognized by the centre) or interspersed.<sup>23</sup>

Regardless of their local ramifications, however, the Guelph and Ghibelline parties appear to have been extraordinary generators of legitimacy and power, and it is in this that their importance lies for the purpose of this present work. The cohesion and solidarity triggered by factional ties are amongst the strongest on the political scene of the fourteenth and fifteenth centuries—certainly more so than those deriving from being subjects to the duke—and offered those who were able to take possession of the channels of mediation an extraordinary

occasion for affirmation. Lords both great and small, and town elites, but also the *homines novi* (such as notaries and legal **(p.183)** experts, who made their intellectual resources available to the *Partes* they belonged to), could take advantage of the factional network, thus gradually occupying the main nodes of communication with the prince.

The circulation of resources between the centre and the periphery of the domain, and the ways in which this was accomplished, therefore generated group solidarity and personal fidelity, which was held together by the effectiveness of the mediation itself: uncertainty and failure subjected the relationship to stress that was capable of opening up space for new mediators and for new configurations of the network of patronage.

It is the interplay between state institutions and the factional network, the close, almost organic relationship between these two areas, that suggests that the relationship between state and *Partes* should not be read in terms of order versus disorder, modernity versus archaism, progress versus conservation, as was done for a long period of time. While profoundly different—and at some moments even on opposing sides—the cultures of which the dukes and the factions were bearers did not in fact prove to be at all incompatible. From this point of view, the occasional decrees issued against those who dared even to name Guelphs and Ghibellines, or the temporary suspension of the *squadre* system, appear to be episodic events, which can be attributed to the momentary re-emergence of local conflict rather than a programmatic policy of repression. Only Filippo Maria—and in a very particular period during his dukedom—seemed really to commit himself to doing away with the *Partes*. His successors, however, preferred to return to a more usual style of government, characterized by acknowledging the Guelphs and the Ghibellines.

In order to find promoters of a political culture that was truly antagonistic to that of the parties, then it is necessary to look, not so much at the political leaders of the state, as at two other actors who in the fifteenth century developed rules of civil life incompatible with the *Partes*: the great masters of law and the Observant friars.

Amongst the former, the condemnation of the Guelphs and Ghibellines became explicit in the late fourteenth century: even though Bartolo, in the middle of the century, had shown that he considered it legitimate for the *cives* to organize themselves into factions ('such behaviour is only permissible if this is done for a just and proper end'), Baldo, already, and then after him Martino Garati, condemned the two factions, presented as a corrupting element of society, 'tamquam vermis in caseo' (Baldo), and true creations of evil that provoked 'the ruin of the state' (Garati).<sup>24</sup>

The criticism of the Observant Franciscan Bernardino da Siena and the fifteenth-century preachers was equally forceful, although based on a largely different perspective, where factions, aspiring to love for some (*partesani*) rather than for all (*caritas*) undermined *ex funditu* the possibility of peaceful civil coexistence.<sup>25</sup> Based on these premises, factional ties were represented in the most sinful terms: membership of the *Partes* was considered heresy, loyalty to the leader a form of **(p.184)** idolatry, and the Guelph and the Ghibelline *Partes* themselves as devilish sects come forth direct from hell! Such a negative interpretation even failed to look kindly upon those testimonies of friendship and love with which the *partesani* used to represent vertical and horizontal links within the factions. With the involvement of the individual—always quick to *become heated*, the *heart swollen* and *blood at the boil*, to cite some frequent expressions in the documents—the preachers perceived the sign of an immoderate passion, one that infected the political body and consigned the soul to damnation.<sup>26</sup>

With respect to these positions, the distance of the dukes of Milan is quite startling. They certainly looked on the Observance movement with sympathy (though they were circumspect with regard to the preaching of individual friars).<sup>27</sup> They formed an even closer relationship with the great legal minds of the time, seeking in a variety of ways to form connections between them, perhaps through the *Studium* in Pavia. Yet, apart from some critical moments—as in the era of Filippo Maria—the political culture of Visconti and Sforza does not appear to have accepted the reasons for condemning the factions that were emanating from important sectors of society. While it had its highs and lows, the relationship between the prince and the *Partes* remained a structural element of the material constitution of the Duchy of Milan.

#### Notes:

(<sup>1</sup>) Dessì, 'I nomi dei guelfi e dei ghibellini'.

(<sup>2</sup>) Gentile, 'Factions and Parties'.

(<sup>3</sup>) Gentile, ' "Postquam malignitates temporum hec nobis dedere nomina ... " ', 257.

(<sup>4</sup>) Tabacco, *Struggle for Power*, 293 ff. Tabacco's insights have more recently been developed by Della Misericordia, 'La "coda" dei gentiluomini'.

(<sup>5</sup>) Arcangeli's study, *Gentiluomini di Lombardia*, 365 ff., was the first to highlight the testimony of Caroldo. Also Arcangeli, 'Appunti su guelfi e ghibellini in Lombardia', with wide reference to the remarks of chroniclers, diplomats, and writers on the Guelphs and Ghibellines in the Lombard area in the early sixteenth century.

<sup>(6)</sup> Gentile, 'Alberi guelfi e alberi ghibellini'. There are references to these practices in other sources. For example, Della Misericordia, 'Dividersi per governarsi', 720. There are comments regarding the heraldic symbols in Gentile, 'Bartolo in pratica', 241-2. But also see Canaccini, 'Battaglie di immagini tra guelfi e ghibellini'.

<sup>(7)</sup> See the volume *Guelfi e ghibellini*.

<sup>(8)</sup> Cited by Arcangeli, 'Appunti su guelfi e ghibellini in Lombardia', 446. On the same theme, however, see also Baron, *The Crisis of the Early Renaissance*, 22 ff. More generally, Ferente, 'Guelphs!'

<sup>(9)</sup> *Acta Libertatis Mediolani*; also Cognasso, 'La repubblica di S. Ambrogio'. For the reference to the banners of Louis XII: Arcangeli, '“Parlamento” e “libertà” nello stato di Milano', 210.

<sup>(10)</sup> Arcangeli, 'Appunti su guelfi e ghibellini in Lombardia', 446.

<sup>(11)</sup> Ibid., 415 ff., which notes that 'the Guelphs and Ghibellines did not have unequivocal correspondences in terms of actual political divisions ... So we can encounter a Guelph who is a "good duke's man", a French Ghibelline can be referred to as "Guelph" '. On this point, also Gamberini, *Lo stato visconteo*, 265 ff.

<sup>(12)</sup> Noted by Corio, *Storia di Milano*, 968, according to which Gian Galeazzo left to his elder son Giovanni Maria not only the ducal title, but also the role of prince and defender 'of the Ghibelline faction'. Despite an undoubted bias in favour of the Ghibellines, the Visconti and Sforza governments leant—as we have seen—towards a policy of tendential equidistance with respect to local factions, generally seen as an instrument of self-government and regulation of political competition. One of the few examples of discrimination against the Guelphs seems to have taken place in the Bergamo valleys in the time of Bernabò, where, according to Patrizia Mainoni's reconstruction, the unequal tax burden brought about the reaction of those who had been most affected. Cf. Mainoni, *Le radici della discordia*, 132 ff. Eadem, *Economia e politica nella Lombardia medievale*, 93 ff.

<sup>(13)</sup> In his *The lovers, Paulo and Daria* of 1495, Gaspare Visconti imagines a dialogue between Visconti and Torriani. To the accusations of the latter, who accuses his opponents of desiring to annihilate the Guelphs, Paolo Visconti replies: 'neither to us can partiality be attributed/who do not see a part where there is all./Who in every moment of time would live well always/gathers the flower and the fruit of our love/and always the malign are set aside/and those iniquitous to us are destroyed/and in the present age and times bygone/each

person is treated as he deserves.' The passage is transcribed and commented on by Arcangeli, 'Appunti su guelfi e ghibellini in Lombardia', 457.

(<sup>14</sup>) Della Misericordia, 'Dividersi per governarsi', 720 ff.; Gentile, 'Bartolo in pratica', 237 ff.; Ferente, *Gli ultimi guelfi*, 19. Yet it is possible to find different situations. A case from the first decades of the sixteenth century shows two brothers from the same family signed on to opposing sides. The strategy that seems intended to guarantee that whichever side triumphed (France or the Empire-backed Sforza) there would be a Pallavicino family member who belonged prominently to the winning party. See Connell, *Machiavelli nel Rinascimento italiano*, 228.

(<sup>15</sup>) Spruyt, *The Sovereign State and Its Competitors*. The first, but important, discussion of the theme is in Della Misericordia, 'La "coda" dei gentiluomini', 369 ff.

(<sup>16</sup>) An aspect that the historiography regarding the Renaissance in Florence and Tuscany perhaps picked up on before others. See the discussion by Najemy, 'Politics: Class and Patronage', and the work *Florentine Tuscany*.

(<sup>17</sup>) Gentile, *Terra e poteri*, 74 note 91.

(<sup>18</sup>) A rich collection of examples in Della Misericordia, 'La "coda" dei gentiluomini'; Gentile, 'Amicizia e fazione'; Poloni, *Storie di famiglia. I Da Fino*.

(<sup>19</sup>) Zenobi, 'Guerra, stato e poteri locali', citation from 475. But there are many other examples in Della Misericordia, 'La "coda" dei gentiluomini'.

(<sup>20</sup>) Pagnoni, *Brescia viscontea*, 188; Gentile, ' "Postquam malignitates temporum hec nobis dedere nomina ... " ', 265.

(<sup>21</sup>) Della Misericordia, 'La "coda" dei gentiluomini', 371.

(<sup>22</sup>) Ferente explores this attempt in *Gli ultimi guelfi*.

(<sup>23</sup>) These various solutions are highlighted in studies by: Gentile, *Fazioni al governo*; Della Misericordia, 'Dividersi per governarsi'; id., 'La "coda" dei gentiluomini'; Sato, 'Fazioni e microfazioni'; Zenobi, 'Nascita di un territorio'; Del Tredici, 'Il partito dello stato', especially 38 ff.

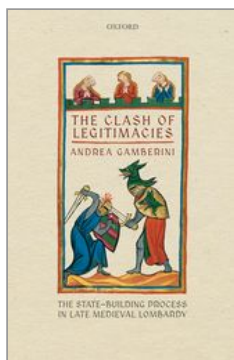
(<sup>24</sup>) For an analysis of these positions, see Gentile, 'Bartolo in pratica', 248; Rossi, ' " ... partialitas in civitate est tanquam vermis in caseo ... " ', 79.

(<sup>25</sup>) Bruni, *La città divisa*, 287 ff.; Evangelisti, 'Bernardino da Siena e l'Osservanza'.

(<sup>26</sup>) Ibid. Also Ferente, *Gli ultimi guelfi*, 242 ff.



(<sup>27</sup>) Rossetti, 'Una questione di famiglie'; Fasoli, *Perseveranti nella regolare osservanza*. Mention has already been made of the expulsion of Michele da Carcano, during whose preaching certain members of the public had shouted out support for the Ambrosian Republic. It is worth pointing out the vigilance of the ducal officials with regard to the movements of preachers from one city to another and their activities. A confirmation in ASMi, Carteggio Sforzesco, b. 793, 1474 May 7, Cremona. In response to a ducal letter that ordered the *podestà*, the *commissarius*, and the bishop of Cremona to remain informed in relation to the identity and past of the preachers who wanted to preach in the city, the prelate reported the arrival of Fra Andrea Borsieri, a citizen of Cremona who had been in Naples, Perugia, and the University of Ferrara. He awaits a response from the duke before giving him leave to go about his business.



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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## ‘Pacta servanda sunt’

### The Political Culture of Contractualism

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### Abstract and Keywords

Guelphism/Ghibellinism was not the only political culture that enjoyed success all across the domain. In the second half of the fifteenth century, assisted by the advent of a dynasty with a legitimacy based on fairly shaky ground, the pacts of submission between the duke and the territorial bodies increasingly became the foundation upon which the new Sforza state was based. The contractualist culture adopted by the communities also played a part here, with the latter determined to confer an authentically constitutional significance on those agreements. While the prince tended to include them in the sphere of Visconti tradition, thus attributing a gracious (and therefore revocable) character to the concessions, the subjects tended to bind them to argumentation of a contractual kind (e.g. the remuneration of a service, a fidelity deserving of recompense, the inveterate observance of a practice followed by former dukes, etc.).

*Keywords:* Contractualism, lord, community, duke, conflict

The political culture that inspired the *Partes* was not the only one that influenced the city and the countryside, the prince and the aristocracies of the duchy. Sources remind us of one other at least, that of pactism (or contractualism). Its success, however, seems to have been a more troubled process, as the chronology of its reception within the domain confirms, occurring as it did in different periods of time in relation to the various actors involved.

In order to introduce the theme, it is best to take as a starting point the mid-fifteenth-century dynastic change, which from a constitutional perspective was far more than just a shift in lineage. An image of continuity was nourished by Francesco Sforza, constructed first of all on the basis of marriage to Bianca Maria, the only daughter of Filippo Maria, on the adoption of the surname Sforza Visconti and the Visconti's armies and on the use of the ducal title, despite the lack of investiture on the part of the Empire. Notwithstanding all this, the prince was forced to rebuild the state on broadly new foundations.

The dissolution of the domain that came about in the aftermath of the death of Filippo Maria prompted the Sforza to embark upon a long and laborious work of re-composition—first on behalf of the Ambrosian Republic, then autonomously. Within this process, pacts with, and promises to, territorial bodies played a role no less important than that of armies and military conquest.<sup>1</sup> The well-known studies that Giorgio Chittolini has devoted to the pacts of submission presented by Lombardy communities in those turbulent times have enabled us to grasp both the long-standing issue of the city/*contado* relationship, which comprehensively emerges through the opposing demands of the *cives* and the countrymen in judicial and fiscal matters,<sup>2</sup> and the role of interaction between centre and periphery in the process of state-building.<sup>3</sup>

In this present work, I think it is important to focus on a different aspect: the new significance that the political practice of pact-making continued to acquire and which ended up bestowing a lasting pactual character upon the state of Milan.

Articles of submission to the lord were also seen, naturally, during the course of the fourteenth century, but these were usually presented by cities and towns, which reserved the right to mediate the requests of smaller communities. Only the so-called **(p.186)** ‘separate lands’ seemed able to avoid this urban intervention, and were able to communicate directly with the Visconti.<sup>4</sup>

The new scenarios created by the collapse of the Viscontian state now made it possible for the smaller rural communities to address the prince directly and negotiate their submission to him, inaugurating an unmediated channel of communication that was also destined to remain open over the following decades.

But the innovations of the Sforza era were not limited to an expansion in the number of actors able to negotiate directly with the duke. On the contrary, they related first of all to the proper constitutional value that many of the leading figures began to attribute to the prince's acceptance of articles and pleas.

The Visconti's attitude towards the tendency of territorial bodies to negotiate important aspects of their subordination had always been marked by great pragmatism. Thus, for example, the different ways a community came to

subjugation—voluntary submission or military conquest—had influenced the kind of willingness shown by the *dominus* in listening to quarrels and requests. And if the community that gave itself over voluntarily to the Visconti was also a rich and populous one, then submission could turn into a true negotiation.<sup>5</sup>

On one point, however, the lords of Milan generally stood firm: they refused those requests that either in tone or content attempted to narrow to too great an extent the distance between *dominus* and subject. The idea of admitting the right of the territorial bodies to negotiate or, worse, an explicit reciprocity of obligation between governing and governed, could not be countenanced.

To the commune of Alessandria, who asked the lord to be satisfied with the *censo*, the tax on the inhabitant’s assets, and leave the remaining income to the city, Luchino Visconti responded that the subjects might ask the lord what he would leave to them, but they could certainly not decide what they would leave to the lord.<sup>6</sup>

To the rural communities of the Bergamo valleys, who asked the *dominus* not to yield to the requests of those who wished to undermine their immunity, Bernabò’s secretary answered: ‘this is equivalent to saying that the serf can impose the law on his lord, which is a *cruel* thing.’ The rash attempt to negotiate a limitation to the power of the *dominus* was represented through the ethico-political category of *crudelitas*—an inhumane overthrow of the natural order.<sup>7</sup>

In tones that were only apparently different, Bernabò also addressed his subjects in Reggio: faced with a pact that seemed to be detrimental to the authority of the *dominus*, he replied: ‘we do not want that the inhabitants of Reggio to place limits on our work, if anything it is we who are to place limits on them.’<sup>8</sup>

**(p.187)** Bernabò was well-known for his brusque way of doing things and harsh manner, and there is abundant evidence of this, but also lords with calmer natures were careful not to be reined in by their subjects. One example of this was the conduct of Gian Galeazzo. On the one hand, his government was characterized by a more open form of communication, where the lexis of love was increasingly deployed to shape relations with his subjects. The adjective *dilectus*, for instance, previously reserved for individuals who enjoyed lordly favour, now began to be used to refer to those communities that were more deserving in the eyes of the Visconti and to which he gladly conceded the fruits of his benevolence (tax privileges, for example).<sup>9</sup>

The rationale for this new climate is clearly stated in the opening section of one of his letters:

As it is testified to by the Word of God that the more one is given and the more one loves, on this account, to further increase the love and fondness of our subjects towards us, on the grounds of which we also are willing to award more lavish grants towards them, we want and command that ...<sup>10</sup>

On the other hand, however, reciprocity of sentiment, which Gian Galeazzo also invokes and theorizes about, implies a reciprocity of commitment that is not at all negotiable in its concrete aspects. Moreover, this was an idea that had already been considered by Egidio Romano (following Aristotle) who represents the relationship of authority between lord and subject as similar to the one between father and child—in which the father has to rule and govern the child ‘*ex paterno amore*’, and the child must obey and be subject to the father ‘*ex dilectione filiale*’. Obedience is reciprocated with a generic commitment to the pursuit of collective well-being. Moreover, once the subjects transferred sovereignty to the *dominus*, the relationship thus created became hereditary, a solution that, according to Egidio Romano, would be a beneficial one for the people (but certainly did not make it possible to redefine the contents of the political bond).<sup>11</sup>

In pro-Visconti circles, the oath of fidelity to the new lord was in fact considered an obligatory act, while the petitions addressed to him—never accepted at the moment of the oath itself, precisely in order not to endorse the contractualist ambitions of the territorial bodies—could, even after acceptance, be unilaterally revised by the lord, given that they were considered gracious.

In the age of Filippo Maria, even the few concessions that arose not from an act of grace but from a pact—and as such, according to doctrine, untouchable—became the target of an offensive aimed at revising and restricting them. This was the case, in many respects emblematic, of the rights granted to the Scotti in 1336 in exchange for the cession of Piacenza to Azzone.<sup>12</sup> These had been defined by the parties through reference to an arbitrament (considered by jurists to be equivalent to a pact), and **(p.188)** thereafter they had been observed for decades.<sup>13</sup> A first attack came in 1393, when Gian Galeazzo ordered the revocation of immunities and privileges throughout the entire domain. On that occasion, however, the ‘*magistri intratarum*’ (superintendents general of revenue) had informed the *dominus* of the obligation to respect the privileges granted *ex pacto et non ex gratia* (following from a pact, not from an act of goodwill) and that only special revocations, and not mere general revocations, could undermine the validity of those concessions. The measure was, therefore, never carried through. However, the matter was raised again by Filippo Maria Visconti, far more determined than his father to revise concessions made long before. It was, in fact, a line consistent with the policy followed by the third Duke of Milan in other broadly factual areas, such as feudalism or *accomandigia*, where—as seen before—Visconti expressed the will to unilaterally revise the content of reciprocal obligation, whether reducing the rights of the

counterparty (in tax matters for example) or laying claim to prerogatives not defined by the agreements (such as the obligation of *raccomandati* to publish and observe certain of the prince’s decrees).

On several occasions, Filippo Maria tried to chip away at the privileges that his forebear Azzone had recognized to the Scotti. The tax-exempt village of Agazzano, for example, was the object of a continuous offensive from 1421, with requests for payment of hearth tax, duties on the local market, extraordinary contributions in the military sphere, and so forth.<sup>14</sup>

Despite these manoeuvres, the Scotti did not bow to the Visconti’s demands and after almost twenty years of resistance they managed to elicit a remission of condemnations from the prince and a binding statement in which, after recalling that it had never been his intention ‘to abandon the path of law nor to bring the pacts into question, which are like a solid bond’, he reiterated the full validity of the concessions granted to the Scotti.<sup>15</sup>

Compared to the tough practices of the Visconti government, little inclined, as we have seen, to determine the political obligations of its subjects on a factual basis, the age of the Sforza appears to be the harbinger of great innovation. The shaky legitimacy of the new prince gave rise to a search for consensus that, on the one hand, found negotiating with the urban and rural communities the most suitable instrument, and, on the other, ended up transforming the constitutional structures of the domain.

Not unlike his predecessors, Sforza tried to protect himself, separating the oath from the acceptance of requests; even when these two acts took place on the same day, the ducal chancellery was careful to register them in separate documents, so as to dispel any doubt about a possible direct link between the two actions.<sup>16</sup>

**(p.189)** And yet such cautious behaviour could not conceal the novelty of a political practice that now allowed the territorial bodies of the duchy—even the smallest ones, which had never before had any kind of access to the *dominus*—to negotiate their obedience. This laid the groundwork for, at some point in the future, being able to refer back to the accepted articles and request that these be respected by the prince and his successors.

The transformed institutional context of the Sforza era not only allowed more space for negotiation between centre and periphery, but created the conditions for an authentic factual significance to be attributed to these concessions. The attempt is already evident at the death of Francesco Sforza (1466), when communities renewed their obedience to his son Galeazzo Maria, not with a unilateral oath—as in general in the age of Visconti—but with the concomitant promulgation by the duke of a writ confirming the validity of the local statutes and the concessions made by his predecessors. The reciprocity of commitment

between subjects and duke, in other words, now became more explicit: if until then only the moment of incorporation of a *terra* in the duchy could be preceded by a conditional submission, from the second part of the fifteenth century every dynastic change gave communities the occasion to obtain confirmation of the inviolability of their statutes, customs, and privileges, and even to try to redefine the details of their subjugation in a more advantageous way.<sup>17</sup>

This was not always, of course, allowed by the prince, but the flexibility of the institutional framework (constituted of a duchy unrecognized as such by the emperor and in which the relationship between the governors and the governed had to be rebuilt after the collapse of 1447) opened new and unexpected spaces, which the pactism evoked by the territorial bodies helped to fill.<sup>18</sup>

In that context, then, the contractualist idea that permeated the cartulary of a great house such as the Scotti—something that, not by chance, was put together at the crucial turning point of the middle of the fifteenth century, when Filippo Maria Visconti tried to unilaterally transform the rights of the Scotti—or the call for reciprocity of obligation that petitions from large and small communities projected on the prince, were nothing if not powerful ideological filters: a cultural representation developed by the territorial bodies in order to shape the political scenario, defining (or redefining) its contours.<sup>19</sup>

The memory of the past—sometimes selective and in some cases even factitious—became a rhetorical weapon that had never before been so keen. Reminding the prince of an inveterate respect for custom and privilege meant to a certain extent designing the concourse within which he was forced to maintain his political activity. Moreover, bringing the assertions of his predecessors to his notice meant establishing further limitations, given the legitimate value that such assertions possessed, the violation of which would have stained his honour and his **(p.190)** house. From this point of view, even the mention of all the episodes that had seen the subjects promptly fulfilling the demands of the lord aimed to relate ducal privilege to the remuneration of a service, which doctrine considered irrevocable.<sup>20</sup>

In the difficult moments of increased tension in relations with authority, it can be seen that communities enriched the language of their pleas with arguments and specifications that give substance to a truly contractual vision of that relationship with authority. It was a vision, that is, which was no longer limited to the allusive evocation of one-to-one links, perhaps associating the good of the community with the *utilitas* of the prince, the survival of one to that of the other, but now a fully articulated nexus of a contractual kind. One example is the story regarding the alpine lands studied by Della Misericordia. In the second half of the fifteenth century, these addressed very explicit pleas to the duke in order to establish their obedience as an obligation worthy of remuneration. Fidelity, in particular, was presented as a meritorious form of behaviour: it was something

that often came at a high price, as was indicated by the plaintive references to the damage caused ‘by the enemy’, but it aroused certain expectations with regard to the prince’s reward, a tangible sign of which was his acceptance of the petitions addressed to him.

Contractualism is invoked not only to obtain something, but also to preserve what one has. Faced with a request from the duke that exceeded what had been agreed upon or introduced a new element with respect to tradition, the reaction was to recall the inveterate observance of the practice of which the prince himself was considered the guarantor. Thus, for example, the people of Bormio responded to the Sforza, who intended to revoke their right to charge a toll, that this revenue ‘could not reasonably be denied to us because, before we submitted to the house of Visconti, we had possessed it from most ancient times and confirmed it from lord to lord until your lordship’.<sup>21</sup>

The ideal of a just prince is to be found in these statements, with the prince seen as the preserver and guarantor of the existent—something that, albeit not entirely alien to Lombard tradition (as the case of Galeazzo II has shown), remained alive more in the claims of territorial bodies than in the governing practices of the Visconti and the Sforza. The latter were always ready to invoke *arbitrium* and *plenitudo potestatis* and the protection of the *salus publica* in order to have a free hand in dealing with their subjects.<sup>22</sup>

The consequences that this contractual interpretation of the political bond could have were evident in times of high tension, when certain communities became openly vehement in their claims. They represented the offending conduct of the prince as an insult and their own disobedience as a right to resist.<sup>23</sup> It was, in fact, a withdrawal of obedience that was more often threatened than actually **(p.191)** carried out, but this does not take away the argumentative value of certain writings. Thus, for example, the disregarding of privilege on the part of the duke was always, at least initially, linked to a problem in communication: the prince, in other words, when making the decision challenged by the community, had been ill-informed. This was a recurring theme that, on the one hand, made it possible for the subjects not to immediately assume an adversarial position towards Sforza, and, on the other, cast a certain doubt on some of the measures decided by the prince *ex certa scientia*.<sup>24</sup>

If the duke’s attitude remained steadfast, however, the appeals of some communities produced a real escalation, which ended up calling into question the very condition of subjugation itself. Faced with an unjust prince, or one who did not fulfil his duties in terms of defence, especially in a military context, men felt free to find another protector ‘and for this reason ... they cannot be seen as rebels or traitors to the prince.’<sup>25</sup>



In the face of these arguments, it is difficult not to grasp the profound analogy with the political culture that inspired the men and communities of the *contado* in their relations with the lords of castles. Here, too, as we have seen, lack of protection by the *dominus* was a factor capable of generating a search for alternatives and the dissolution of previous constraints of obedience. In addition, not very differently from the *terrae* of the duchy *immediatae subiectae* to the prince, even in those subject to the lords of castles, justice was perceived as one of the complements of obedience, the cornerstone of a reciprocity of commitments accepted by the Visconti and Sforza themselves. Pietro Rossi responded to a *podestà* of his lands, one not particularly sensitive to the theme of justice, with a severe reprimand, reminding him—as has been mentioned elsewhere—that ‘ubi iustitia perit non est habitandum’.<sup>26</sup>

The feared flight of Rossi’s subjects was echoed by that threatened by the commune of Morbegno, which wrote to the Sforza saying: ‘finding the community of Morbegno to be placed under pressure and its rights violated, then, desperate as we are, we elect to abandon this town, *quia ubi iustitia perit, ibi non est habitandum*’.<sup>27</sup>

But parallels between men subject to the prince and those subordinate to a *dominus loci* could be found in abundance. It seems appropriate to mention here the implications of the lexis of friendship used between *homines* and *domini* and evocative of a solidarity founded on the exchange of favours and services. Moreover, the fact that for the countrymen, too, subordination to the *dominus* was not without its own complements, was not only shown by episodes analysed earlier, but is something that is lucidly theorized in those judicial depositions where obedience is defined as *servicialis* (linked to a *servicium* of the lord) and not *caritativa* (charitable—since *caritas* does not presuppose reciprocity, which in this context is central) **(p.192)** and ‘volontaria et de bono amore’ (‘voluntarily and out of pure love’ and not ‘de iurisdictione’ (and not ‘in obedience to a command’). This latter clarification inverts the cause/effect nexus represented by the lords, thus giving full support to the contractual nature of the obligation.<sup>28</sup>

Often, however, the contract with the *dominus loci* is not only an ideal construction, even though it is actually capable of shaping political relations: formal agreements are, for instance, those achieved through the collective oaths of the *homines*, charters of franchise, and rural statutes. These are certainly acts that register asymmetry between the parties, insisting more on the duties of one and emphasizing the rights of the other. But, in the end, clarifying the obligations of a contractor is still a way to prevent the non-negotiated expansion of those same obligations. Moreover, the articles of the communities accepted by the Duke of Milan reflect not only a similar asymmetry, but also the same dialectical mechanisms.

Without spending more time on the comparison, it would be worthwhile instead to focus on the chronological gap between the moment when the contractual culture begins to influence relations between the *homines* and the *dominus castri* and the moment in which it shapes the relationship between the communities and the duke. In the former case, this dates back to the mid-fourteenth century (if not before); in the latter, however, it does not precede the advent of the Sforza dynasty in the mid-fifteenth century.

A considerable period of time, in other words, which again establishes the image of the rural lordship as an extraordinary political laboratory. This it certainly was in the early eleventh century, when certain techniques of power (for example in the tax and judicial spheres) had anticipated results which the states would only come to at a later date, and it was again in the fourteenth century, when, profoundly transformed with respect to the past, it became the incubator of a contractual culture that, in the Duchy of Milan, would manifest itself only a century later.<sup>29</sup>

Notes:

(<sup>1</sup>) On these happenings: Menniti Ippolito, *Francesco I Sforza*; Chittolini, *Città, comunità e feudi*, 39 ff.

(<sup>2</sup>) Ibid.

(<sup>3</sup>) Chittolini, ‘Models of Government’.

(<sup>4</sup>) See the documents published or collected in the *Repertorio diplomatico visconteo* or in the work *La politica finanziaria dei Visconti*. On the ‘terre separate’ cf. Chittolini, *Città, comunità e feudi*, 61 ff.

(<sup>5</sup>) For example, see the generous terms worked out with Siena and Pisa: Favale, ‘Siena nel quadro della politica viscontea’; Scaramella, ‘La dominazione viscontea in Pisa’.

(<sup>6</sup>) Gamberini, ‘Aequalitas, fidelitas, amicitia’, 436.

(<sup>7</sup>) ‘Hoc est dicere quod servus imponat legem domino suo, quod est crudele.’ Ibid. On the meaning of *crudelitas*: Todeschini, *Visibilmente crudeli*, 15 ff.

(<sup>8</sup>) ‘Non intendimus quod homines Regii nobis dent metam, sed nos eam eis dare.’ Cf. Gamberini, *La città assediata*, 257.

(<sup>9</sup>) Gamberini, ‘The Emotions of the State’, 198 ff.

(<sup>10</sup>) ‘Nos Galeaz de Vicecomitibus, Dominus Mediolani, etc. Quoniam sacro testatur eloquio quod cui plus dimititur et ille magis diligit, idcirco ut nostrorum subditorum dilectionis fervor et amoris in nos ampius ascendatur, per

quod et nos ad uberiores gratiarum impenssiones erga illos inclinemur, volumus et mandamus ...’. Ibid., 199.

(<sup>11</sup>) On this theory of Egidio Romano’s, cf. Cengarle, *Lesa maestà*, 88–9.

(<sup>12</sup>) The event was reconstructed by Gamberini, *Lo stato visconteo*, 231 ff.

(<sup>13</sup>) On the *lodo*/pact equivalence, cf. Martone, *Arbiter-arbitrator*, 54. On the binding nature of the pact, not only for the prince, but also for his successors: Canning, *The Political Thought of Baldus*, 214 ff.

(<sup>14</sup>) ASRe, *Archivio Malaspina Torello*, Cartulario Scotti, cc. 26 ff.

(<sup>15</sup>) ‘A tramite iuris deviare, nec contra ipsa pacta tamquam contra solidum vinculum permittere attentari’. ASRe, *Archivio Malaspina Torello*, Cartulario Scotti, cc. 176–8; 1442 March 2, Milano.

(<sup>16</sup>) Noted by Della Misericordia, ‘“Per non privarci de nostre raxone, li siamo stati desobidienti”’, 184 ff.

(<sup>17</sup>) Ibid., 185–7.

(<sup>18</sup>) There is an extensive literature on pactism. In terms of the present work, see De Benedictis, *Politica, governo e istituzioni*, 287 ff., and the bibliography cited therein.

(<sup>19</sup>) Gamberini, *Lo stato visconteo*, 243; Della Misericordia, ‘“Per non privarci de nostre raxone, li siamo stati desobidienti”’, 214.

(<sup>20</sup>) Ibid., 180–1; Gamberini, *Lo stato visconteo*, 340.

(<sup>21</sup>) Citation from Della Misericordia, ‘“Per non privarci de nostre raxone, li siamo stati desobidienti”’, 160.

(<sup>22</sup>) Regarding the justice of Galeazzo II cf. chapter 9.3. In relation to the origin of this vision of the just prince, seen as the supreme protector of order and preserver of individual rights and status, see Kantorowicz, *The King’s Two Bodies*, 87 ff.

(<sup>23</sup>) On the rights of resistance, De Benedictis, *Politica, governo e istituzioni*, 307 ff., 332.

(<sup>24</sup>) Della Misericordia, ‘“Per non privarci de nostre raxone, li siamo stati desobidienti”’, 166 ff.

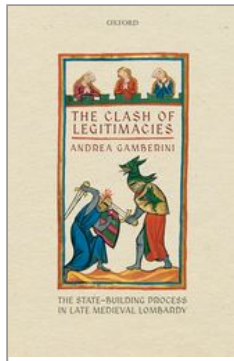
(<sup>25</sup>) Ibid., 175. The same doctrine recognized the cessation of obedience to a prince who did not want, or was unable, to defend a land. Confirmation in the practices in Arcangeli, ‘Cambiamenti di dominio nello stato di Milano’, 42 ff.

(<sup>26</sup>) Gentile, *Terra e poteri*, 71.

(<sup>27</sup>) Della Misericordia, ‘ “Per non privarci de nostre raxone, li siamo stati desobidienti” ’, 194–5.

(<sup>28</sup>) These expressions are found in some judicial depositions noted by Chittolini, *La formazione dello stato regionale*, 167.

(<sup>29</sup>) In the new forms of taxation and the new judicial solutions along coercive lines developed by the rural lords between the eleventh and twelfth centuries, Barthélemy in fact sees one of the bases of ‘modern statehood’. Barthélemy, *L’ordre seigneurial*, 247 ff.



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## Concluding Note

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### Abstract and Keywords

This chapter summarizes all the main points and issues addressed in previous chapters (both in Part I and in Part II), with the aim of highlighting the common thread that runs through the entire work. The result is a new reading of the state-building process at the end of the Middle Ages. The limitations of attempts by governors to present the political principles that inspired their acts as shared and universally recognized are revealed by a historical analysis firmly intent on investigating the existence, in particular territorial or social ambits, of other political cultures which based obedience to authority on different, and frequently original, ideals.

*Keywords:* Renaissance state, political culture, city-states, rural lord, faction, peasant, conflict, power

When in 2005, during a seminar in Milan, I presented the very first results of my research on the clash between political cultures in the Duchy of Milan, certain critical voices reprimanded me for seeking conflict where none existed—in the area, in other words, of the rules of civil coexistence.

After many years, I believe it is fair to say that both the panorama of research and the sensibility of the scholars themselves have changed greatly. If, indeed, one factor of profound renewal can be traced back to the recent research on power relations, this might well be found in the attention devoted to the theme of pragmatic political cultures—those within which social actors carry out their actions—and the development that this stimulated. The idea has by now been abandoned that these are artificial veneers, applied by the holders of power to legitimize their authority. Today they are seen as powerful ideological filters

through which social actors interpret and reinterpret the political and institutional context in order to give it shape—to bring influence to bear on a scenario that was by no means fixed, and certainly not determined once and for all. In this perspective, then, the tripartite society designed by Adalberon of Laon in the eleventh century seems to carry out the same task as the (far more ramified) image of society presented by the introductory sections of certain decrees of the dukes of Milan.

In this book, however, attention has not been given solely to the holders of power and their ability to elaborate idealities with which to form relations of authority. On the contrary, a great deal of space has also been devoted to other subjects involved in power relations, with the aim of highlighting both the elements around which an understanding between the governors and the governed was possible, and above all the reasons for dissent. These could mature within a tendentially shared cultural perspective, but they could also have deeper causes, to be sought in the heterogeneity of their respective cultural backgrounds.

This is the context, then, in which the book proposes to reconsider the phenomena of the genesis of the new statehood in the twelfth to the fifteenth centuries. Going beyond simple institutional operations, the mere power relationships which are, in fact, the aspects of the state-building processes traditionally investigated by historians, I have attempted to reconstruct the ability that the various players had in terms of elaborating visions—ones that, while perhaps not always coherent, were however deeply rooted. Visions of legitimate authority, the common good, representation or decision-making: in other words, the cornerstones of political society, at least as it took shape over the last four centuries of the Middle Ages.

**(p.194)** The protagonists of this multi-voiced dialogue are both public authorities (the city commune and then the regional state) and the local powers (the rural commune, the lords of castles, the factions, etc.) who confronted one another in a region such as Lombardy, with its very heterogeneous political physiognomy.

My research took as its starting point the communal age, the subject of the book's first chapter. It was the very appearance of the first communes at the end of the eleventh century which increased the distance between the city and the countryside in terms of political development and cultures (chapter 1). The commune, albeit initially in a non-monopolistic form, was able to assert itself on the political scene of the *civitates* and in the space of a century passed from an *extra legem* situation to full recognition. It was assisted in this by a complex work of conceptual elaboration that owed a great deal to the clash with Barbarossa and even more to the encounter with the Roman juridical tradition, the platform on which the *doctores* built the public-law doctrine basis of city

autonomy (chapter 2). One of the main manifestations of this *public* vocation was certainly control of the territory, lucidly thematized by the *cives* themselves. In the years of the wars against Barbarossa, the *cives* claimed full control of the *comitatus*, in spite of the districtual conception that the Staufer still had of diocesan space (chapter 3).

The projection of the city commune beyond the walls forcefully raised the issue of confrontation not only with imperial political culture, but also with that of the territorial bodies. The *civitates* initiated a dialogue with the latter which initially valorized those elements in common above all—those, in other words, on which it was possible to build agreements. These ranged from the allodality of power to the culture of possession, to feudalism, etc.—elements consistent with a policy of expansion that in these initial stages on the whole took place peacefully. One case apart was the political culture of territoriality, which jurists from a later age summed up with the formula *iurisdictio cohaeret territorio*: not unknown to the society of the countryside, it acquired increasing importance only when the civil courts, called upon to resolve jurisdictional litigation between lords, elected it as the ordering principle of the power struggles in the countryside (chapter 4).

If the aspects mentioned so far define areas of political culture both shared and participated in, many others, however, mark the irreducible difference between city and countryside. The originality of the communal political experience took shape around the horizontal ties between the *cives*, whose strength was able to break the traditional nexus between power and social pre-eminence, even that of the emperor himself. *Libertas*, in terms of political autonomy based on custom, then became one of the structuring words of the great narrative elaborated by the communes, part of a broader ideology of civil life that, through an ancient lexicon (*consul*, *res publica*, *iurisdictio*, etc.), articulated a completely new kind of content. Of the political discourse of the communal age, I have not only highlighted the most significant moments (the birth of a culture of legality, the development of an institutional culture, the *bonum commune*), but also sought to bring out the tendency of various social actors to consistently represent the unity of the political body. This was the supreme value which neither the factions nor the *Popolo* would renounce, even when they were alone in power: on the contrary, in fact, it was usually **(p.195)** very much in that kind of situation that the *Partes* tended to represent themselves as ‘the whole’ (chapters 5 and 8).

And yet division in the political body not only existed but was a constituent part of communal experience, where a variety of different social groups and sectors confronted one another in increasingly regulated and disciplined forms. To see how the ideologies of unity came to terms with the theme of plurality meant, therefore, investigating phenomena in the context of political culture such as the organization of assemblies, the decision-making process, and the mediation of councils. A first step in this direction occurred with the development of a new civic value, that of *aequalitas*. With the taboo of assembly unanimity broken by

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the age of the *podestà*, the issue that now had to be addressed was the legitimization of the division of the political body, something that was acceptable only if it was not a harbinger of violence. In this perspective, a distribution of resources (seats, offices) and responsibilities (above all, those dealing with taxes) inspired by equitable criteria made reciprocal acknowledgement possible for the groups and social forces within the councils. Even with all its unresolved ambiguities, *aequalitas* thus became the bulwark of pluralism and the complement of unity. But even more than this, the reproduction of the various sectors of the social body within the assemblies was precisely what gave rise to council mediation, as is shown by the reworking of the legal principle *quod omnes tangit ab omnibus comprobetur*, brought back into use not only to justify collective decision-making but also to establish the principle of representation (chapter 6).

This immense work of refoundation of political language and culture particularly engaged two groups in the communal age, the experts of the *Ars dictandi* and the jurists. The former, through the reworking of materials from the distant past (ancient republicanism, Cicero, and then, from the end of the thirteenth century, also Aristotle), came to identify the essence of politics in the government of the community through justice, which alone could guarantee peace and collective profit. The latter, meanwhile, developed the instruments to affirm the primacy of the commune both within and outside the city. The encounter between the jurists and the commune was neither inevitable nor immediate, given that the first glossators, when theorizing *iurisdictio*, still looked to the public authorities of the time to bring order and justice into society. It was, if anything, the shortcoming or weakness of those powers that allowed the communes to appropriate the authority to protect rights and to evaluate ownership in the event of conflict. The effect was twofold: to legitimize the efforts of the commune, committed to promoting itself as a public power, and to lay the foundations for a relationship with the jurists that would become osmotic and pregnant with consequences (chapter 7).

It was, in fact, the extremely close connection with the *doctores* that allowed the communes to make the law, seen as a legislative, doctrinal, and judicial instrument, the tool with which to dismantle the opposing powers and the cultures on which they were based. With a speed and intensity that varied from city to city, the ‘sweet violence of the law’ was spread throughout the countryside. From the height of the consular age, the commune projected its own culture and system of values there, following a process that reached its culmination in the mid-thirteenth century, **(p.196)** when urban law was affirmed as a law that was also territorial. The world of the *contado* was thus reshaped in institutional and juridical forms consistent with those of the city commune. Powerful organicistic metaphors—which expressed the relationship between the city and the countryside in terms of *mater/filii* or *caput/membra*—were given the task of affirming not only the hierarchical nature of that

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relationship, but also the consubstantiality that existed between the protagonists. Moreover, the glossators in those decades appear to be constantly engaged in hermeneutic activity with a doctrine aimed at translating the image of cultural homogeneity between the city and the surrounding territory into practice. The process of reinterpretation of reality that the *doctores* pursued on the basis of learned law made it possible for the communes to reformulate political bonds in the countryside. This was assisted by the new processual culture inspired by the *ordines iudiciari*, whose tendency to regulate real situations through recourse to the use of abstraction and general rules brought about the actual rewriting of the rights that were the subject of litigation. The challenge that the commune threw down to the lordly powers of the countryside was then to reformulate their own traditional prerogatives of dominion through the new juridical language, in order to find a collocation within that general *ordo* (hierarchy) of authorities that placed the emperor at the summit and the communes immediately below him. In a sort of self-nourishing circle, reference to the *ordo* made it possible for the commune to provide a basis for its own jurisdictional primacy, while the exercise of communal *iurisdictio* strengthened the *ordo* as a parameter of the legitimacy of power. For those powers that had their own roots in different cultural backgrounds, the judicial pliers inexorably closed down the spaces available for claim-making, as is clearly shown by the processes open in urban courts against the lords of the countryside (chapter 9).

In spite of the efforts made by the city to deny even the existence of politico-juridical categories alternative to its own, the scenario offered by the countryside of the eleventh and twelfth centuries was a fairly lively one, marked by the protagonism not only of the *milites* but also of the country people. The members of the *militia* identified the military function as a fundamental element of their condition, which nourished an ethos in which honour played an important part, the ‘love of hatred’, according to a cliché that the knights also displayed in the cities. As long as urban communes (on the one hand) and countrymen (on the other) did not openly contest the *milites’* power, the latter’s efforts at development were directed in particular towards the interior—in other words, to rank and crystallize the various levels of preeminence within the *militia*. Evidence for this is provided by the appearance of new levels of status, such as *capitanei* and *valvassores*, which hierarchized the *milites* not on the basis of the power exercised, but on the basis of the position that each one occupied in the feudal system that was so attractive to the elites. This was probably a conservative manoeuvre by the *seniores* amongst the aristocrats faced with the intense social mobility of the period.

As regards the relationship between *milites* and *homines* and its foundations, if the earliest chronological sources place a great deal of emphasis on the role of violence perpetrated by the lords to inferiorize their followers on a cultural level as well, it is only necessary to move a few decades ahead in order to observe the **(p.197)** opening up of negotiating spaces—for example on the occasion of

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periodic oath-swearing to the lord—which were also given concrete form in the franchise. Generally explicit in indicating the complexity of the actions that substantiate the *dominus/homines* relationship, the sources rarely provide an interpretation that the countrymen might make of such gestures, the meanings they attributed to them, primarily because of the limited, and in any case mediated, access that the *homines* had to the written word. While a certain interpretative caution has been required, the analysis of witness testimony has made it possible to penetrate this curtain of silence, revealing the outlines of a culture marked, if not yet by pactism, at least by the exchange and reciprocity of commitment. In the representations offered by the country dwellers, obedience is always linked to a concession or service, ranging from land to military protection (chapter 10).

Reflecting on the world of the countryside also means focusing on other aspects, however, than the idealities that accompanied the spread of rural communes—where it is possible to observe some of the principles that also inspired aspects of life in the city that were connected with that of the countryside, such as representation—to the effects of interaction with urban cultures, which were not necessarily the bearers of the subjugation and denial of diversity. The new judicial culture in the cities is a good example of this; while spreading through the rural communities, it was made subservient to a widespread local culture, a culture of practices. In a world where repetitive possessory actions carry out a claim-making function, translating themselves into rights if publicly acknowledged, the verdict obtainable through urban courts became a means employed by rural communities to see their claims accepted as authentic, first and foremost in such a sensitive and highly popular field as that of boundaries (§II).

The second section takes the reader towards the constitutional dynamics of the fourteenth and fifteenth centuries, rereading the theme of the confrontation between political cultures through a case study of the Visconti-Sforza dominion. Far from simplifying the political picture, the regional state absorbed but did not dissolve the many existing territorial bodies, resulting in a stratification of languages and idealities in which the old was aggregated to the new, in an arrangement of extreme tensions (chapter 1).

The starting point for these transformations was the affirmation of a strong lordly government in the early decades of the fourteenth century. The arrival of Henry VII and the conferring of the imperial vicariate signified a watershed in the Visconti world, which saw the lord detached, not without some initial hesitation, from bottom-up forms of legitimacy to adhere to a royal conception of its authority, one that was not always coherent in itself. Its definition, from time to time, involved substantial investment in terms of munificence, the adoption of a true *regimen regale*, expensive marriage arrangements with the ruling houses of the time, the recovery of the tradition of the Lombard kings of Pavia, and even

the employment of a lexicon relating to divine providence, which made it possible to suggest links with an even higher level of majesty. Ethico-juridical legitimation and consensus-building strategies were repeated throughout the fourteenth century, well beyond the ducal investiture of 1395, until the age of Filippo Maria, when the Visconti **(p.198)** came to represent themselves in monarchical terms, a model unequalled in the subsequent age of the Sforza (chapter 2).

In this immense work of ideal elaboration, stimulus was also provided by the controversy regarding despotic regimes that, from the beginning of the fourteenth century, fanned the flames of political debate both within and outside the cities that were part of the *signoria*. The lords of Milan offered cogent answers to the criticisms from Florence and the pope, first rejecting the charges, then setting themselves up as paladins in the war against tyranny—now seen not as one of the degenerate forms of government, as in its traditional sense, but as a division of the political body, a prime cause of war, and an obstacle to peace. Through this intrepid conceptual twist, pro-Visconti circles were thus notably successful in turning a delegitimizing accusation away from their masters, while at the same time elaborating an ethico-political justification for their expansionism: a first glimpse, here, of the ideological foundations of the regional state (chapter 3).

As it was in the communal age, so, in the Visconti-Sforza era, law was the instrument that the public authority relied upon to subordinate the many actors present and to subjugate their political cultures. There is, therefore, the attempt to tighten a vice around competing powers—a vice that is at the same time legislative, doctrinal, and judicial. And yet, it is difficult to escape the impression of an effort whose outcomes were somewhat more uncertain than in the past. Obstacles were created not just by the reaction of the territorial bodies, who challenged the erosion of their prerogatives as far as possible, but also that of the legal professionals themselves. The latter, while supporting the rise of the *signoria*, from which they obtained both individual advantage and recognition as a class, were still closely related to the urban and communal world, whose traditions of autonomy, at least in some sectors, they unhesitatingly guaranteed, even when faced with intrusive action from the prince. If the prince's legislative instrument thus ran up against certain limitations in its actual deployment throughout local juridical cultures, the class compactness of the *doctores* highlighted the boundaries that the ducal initiative also encountered in the field of doctrinal matters. There was the case of the *plenitudo potestatis*, for example, the subject, during the course of the fifteenth century, of ever-increasing criticism by certain of the great jurists of the day. As for the judicial sphere, the introduction of a 'special justice' set in motion by a petition or by the interest of the prince and entrusted to trustworthy legal experts, preferably not part of the magistrature, was certainly seen to be an effective instrument of government. The price of this, however, was the creation of a great deal of tension with those

sectors of the society with a different idea of justice, which attributed to the prince the role of guarantor of order and procedure, not, certainly, powers of abrogation (chapter 4).

Conflict in the domain was not, however, restricted to the field of juridical culture. The great challenge posed by the construction of a state based around a noble and princely structure led first of all to confrontation with those republican ideals that continued to guide large and small communities in their day-to-day operation. Once again, the Visconti and the Sforza did not merely set about seeking a peaceful *modus vivendi*, but attempted to dismantle competing cultures through **(p.199)** the development of an alternative model of social organization, based on distinction between men. Communitary egalitarianism was opposed by the valorization of individual excellence, which the prince acknowledged on the basis of status, wealth, and local influence. This resulted in a frontal attack on the political subjectivity of the communities, which, however, reacted in different ways in the cities and in the countryside. In urban centres, in the communal age, the social status of the persons (*qualitas personarum*), while not univocally defined, had already been a requirement for access to councils: here, therefore, opposition seems to have been weaker, and made it possible to establish a system from the early 1340s in which the eminent families *in loco*, both Guelphs and Ghibellines, were recognized to have a role as privileged interlocutors of the prince, who relied on their mediation within the communal government. The outcome was a new organization of the political space, hegemonized by aristocratic-led factions, which brought an end to forms of government modelled on cultures of established communal tradition, from civic republicanism to the culture of the *Popolo*. Through highs and lows, the system survived for more than one hundred and fifty years, innervating the entire Visconti—Sforza era, at least until the end of the fifteenth century, when debates on the *meliores* eligible for the councils ceased to be the prerogative of the prince and faction leaders and directly involved the *cives*. The latter, in fact, were now the ones working on new representations of individual excellence, no longer connected to factional logic and instead anchored to proper communal values (citizenship for several generations, belonging to a prestigious professional *collegio*, personal conduct appropriate to that of noble status). On the threshold of the modern era, political discourse in the city still revolved around individual eminence, but one of its most recent thematizations opened up spaces for a horizontal recompactation of society, in a way that already appears proto-patrician (chapter 5).

The promotion and acknowledgement of distinction were also the compass that guided Visconti-Sforza policies in relation to territorial aristocracies, but the price asked of the latter in order for them to be elected as referents for the dukes was generally rather high. They were asked above all to accept that their prerogatives of dominion be rewritten in feudal form, with serious implications both in relation to the rights they exercised over the territory and with regard to

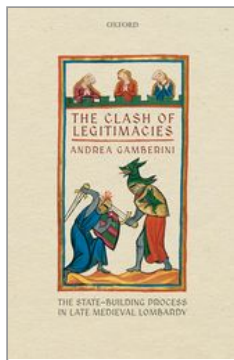
the communities subject to them. The latter, in fact, frequently saw the transformed institutional situation of the local lords as an opportunity to renegotiate their terms of obedience. But the discipline imposed by the prince on the aristocracies involved, at least in principle, even more burdensome renunciations. These included the abandonment of all those aspects of noble culture that were incompatible with the culture of the principality, starting with *ius ad bellum*, the right to carry weapons freely, ritual violence, and so on, none of which was acknowledged by the prince (chapter 6).

If we pass from the relationship between the duke and the territorial aristocracies to that between the latter and the rural populations, the impression of an intense confrontation over the legitimacy of power does not change. Compared to the central centuries of the medieval period, the language of seigneurial power is no longer one of violence, just as its political culture is not that of the inferiorization of the rural people. The emergence of the lexicon of friendship, if on the one hand **(p.200)** it conveys an idea of power liberated from its most brutal manifestations, on the other it embeds that same power within an explicit framework of exchange and reciprocity, in which obedience corresponds to the protection (both military and fiscal) of the *dominus* and his mediation with central authorities (which alone have the power to supply certain resources). While this is a real re-establishment of the political bond on a consensual basis, it does not seem to generate shared representations: in fact, it is precisely the opposing elaborations that actors offer of the cause/effect nexus (which comes first, obedience or protection?) that reveal a clash between idealities anchored to very different backgrounds (chapter 7).

To find a political culture that was actually shared by rural lords and countrymen, as well as by country and city, and aristocrats and prince, then it would probably be necessary to look at that of the Guelph and Ghibelline meta-factions, capable as they were of activating ties of solidarity and a strong sense of obedience. More than the ideological component—although the contents of this evolved constantly throughout the fourteenth and fifteenth centuries and beyond—what generated membership of the *Partes* was above all their role of mediation between environments at a distance from one another, such as the centre of the domain and its peripheries. The emergence of a new bureaucratically oriented state did not exhaust the spaces for political interaction, and the Guelph and Ghibelline parties ended up monopolizing the exchange of particular resources: exemptions, pardons, ecclesiastical benefices for subjects, information and political support for the duke. If the efficient circulation of these resources corroborated the authority of the faction leader over his men and legitimized his role in the eyes of the prince, incompetence and failure paved the way for new mediators and a redefinition of the internal hierarchy of the party (chapter 8).

But Guelphism/Ghibellinism was not the only political culture that enjoyed success all across the domain. In the second half of the fifteenth century, assisted by the advent of a dynasty with a legitimacy based on fairly shaky ground, the pacts of submission between the duke and the territorial bodies increasingly became the foundation upon which the new Sforza state was based. The contractualist culture adopted by the communities also played a part here, with the latter determined to confer an authentically constitutional significance on those agreements. While the prince tended to include them in the sphere of Visconti tradition, thus attributing a gracious (and therefore revocable) character to the concessions, the subjects tended to bind them to argumentation of a contractual kind (e.g. the remuneration of a service, a fidelity deserving of recompense, the inveterate observance of a practice followed by former dukes, etc.). This transformed the articles accepted by the prince and the privileges granted by him into real contracts, from which he could not be the first to unilaterally deviate: the price otherwise was that of disobedience, represented as a right of resistance. A pact (real or imagined), a reciprocity of commitments between governors and governed, limitations on the power of authority, the option for subjects to remove themselves from power that becomes illegitimate: here we find a range of arguments that for a much longer period of time also articulate the dialectic within the rural *signoria*, which is thus confirmed as an extraordinary political laboratory (chapter 9).

**(p.201)** So, coming to the end of these notes, I hope that the line that I have followed here is clear. In the four centuries under consideration, the political physiognomy of the Po Valley area went through a huge number of changes, but these transformations did not only involve institutional forms and structures of power. From the origins of urban autonomy to the stabilization of the regional state, the confrontation between values and idealities was one that was constantly open—something that suggests that Lombard society should not be considered as a space for the predictable composition of consensus but as a field of intense intellectual contention. **(p.202)**



## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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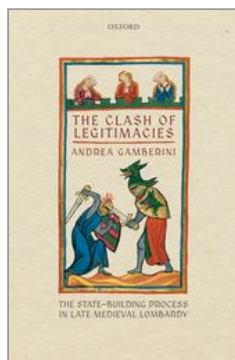
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## The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy

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